

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL VECASEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44539

FILED

JUN 16 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of robbery of a victim sixty-five years of age or older. Second Judicial District Court, Washoe County; Jerome Polaha, Judge. The district court sentenced appellant to a prison term of 60 to 180 months with an equal and consecutive term for the elder enhancement.

Appellant contends that the sentence constitutes cruel and unusual punishment in violation of the United States and Nevada constitutions because the district court punished him for being mentally ill. We disagree.

This court has consistently afforded the district court wide discretion in its sentencing decision.¹ This court will refrain from interfering with the sentence imposed "[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence."²


¹See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).


²Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

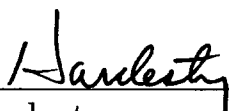
In the instant case, it is clear that the district court's sentence was based on the crime committed by appellant. The fact that appellant may also have been mentally ill is of no consequence. Appellant is not being punished for his mental illness; he is being punished for the commission of robbery. Further, we note that the sentence imposed was within the parameters provided by the relevant statutes.³ Accordingly, we conclude that the sentence imposed does not constitute cruel and unusual punishment.

Having considered appellant's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Rose


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Jerome Polaha, District Judge
Washoe County Public Defender
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

³See NRS 200.380(2); NRS 193.167(1)(f).