

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONALD RAY KEEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44885

FILED

OCT 04 2005

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of two counts of robbery with the use of a firearm. Second Judicial District Court, Washoe County; Janet J. Berry, Judge. For each count, the district court sentenced appellant Donald Ray Keen to serve a prison term of 48 to 180 months and an equal, consecutive term for the use of a deadly weapon. The district court imposed the sentence for count two to run consecutively with the sentence for count one and for the sentence in count one to run consecutively with a sentence that Keen received in another case.

Keen's sole contention on appeal is that the district court abused its discretion by sentencing him to a consecutive rather than a concurrent sentence. We conclude that Keen's contention is without merit.

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 Moreover, a sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional, and the sentence is not so unreasonably disproportionate as to shock the conscience.³

In the instant case, Keen does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. Further, we note that the sentence imposed

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).


³Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)).

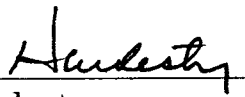
is within the parameters provided by the relevant statutes.⁴ Moreover, it is within the district court's discretion to impose consecutive sentences.⁵

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

ORDER the judgment of conviction AFFIRMED.


_____, J.
Maupin


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Janet J. Berry, District Judge
Charles C. Diaz
Bruce D. Voorhees
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

⁴See NRS 200.380(2) (robbery is punishable by a prison term of 2 to 15 years); NRS 193.165(1) (requires an equal and consecutive sentence for crimes committed with the use of a deadly weapon).

⁵See NRS 176.035(1); Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967).