IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES LEE JORDAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45135

FILED

DEC 12 2005

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of unlawful sale of a controlled substance. Second Judicial District Court, Washoe County; Brent T. Adams, Judge. The district court sentenced appellant Charles Lee Jordan to serve a prison term of 16 to 48 months to run consecutively to the sentence imposed in an unrelated case.

Jordan's sole contention is that the district court abused its discretion at sentencing by imposing consecutive sentences. Specifically, Jordan argues that the sentence imposed is too harsh given that he had a history of drug abuse and had never received drug treatment. Citing to the dissents in Tanksley v. State[1] and Sims v. State[2] for support, Jordan contends that this court should review the sentence imposed by the district court to determine whether justice was done. We conclude that Jordan's contention lacks merit.

This court has consistently afforded the district court wide discretion in its sentencing decision and will refrain from interfering with

[1]113 Nev. 844, 852, 944 P.2d 240, 245 (1997) (Rose, J., dissenting).

[2]107 Nev. 438, 441, 814 P.2d 63, 65 (1991) (Rose, J., dissenting).

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."[3] Regardless of its severity, 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 to the crime as to shock the conscience.[4]

In the instant case, Jordan does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant sentencing statute is unconstitutional. Moreover, the sentence imposed was within the parameters provided by the relevant statute,[5] and the district court has discretion to impose consecutive sentences.[6] Finally, the sentence imposed is not so unreasonably disproportionate to the crime as to shock the conscience. The instant offense involved a trafficking amount of cocaine, and Jordan had three prior felony convictions involving possession of controlled substances. Accordingly, we conclude that the district court did not abuse its discretion at sentencing.

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[3]Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976); Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

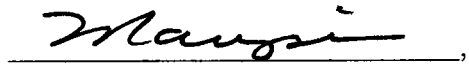
[4]Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)).

[5]See NRS 453.321(2)(a) (providing for a prison sentence of 1 to 6 years).

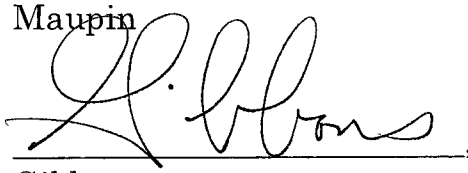
[6]See NRS 176.035(1); Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967).

Having considered Jordan's contentions and concluded that they lack merit, we

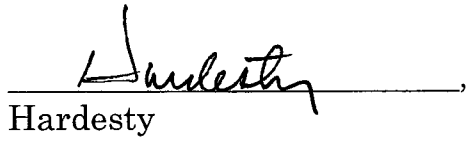
ORDER the judgment of conviction AFFIRMED.



_____, J.
Maupin



_____, J.
Gibbons



_____, J.
Hardesty

cc: Hon. Brent T. Adams, District Judge
Washoe County Public Defender
Attorney General George Chanos/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk