

IN THE SUPREME COURT OF THE STATE OF NEVADA

HERBERT VAN HARRIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45530

FILED

MAR 27 2006

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of assault with a deadly weapon. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge. The district court sentenced appellant Herbert Van Harris to a prison term of 18 to 60 months.

Harris contends that the district court abused its discretion at sentencing because by imposing a minimum sentence greater than 12 months. Harris further argues that he was not aware that the district court could impose a minimum sentence of more than 12 months. We conclude that Harris' 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

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).

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, Harris does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statute.⁴

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

ORDER the judgment of conviction AFFIRMED.⁵

Douglas J.
Douglas

Becker J.
Becker

Parraguirre J.
Parraguirre

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

⁴See NRS 200.471(2)(b).

⁵Because appellant is represented by counsel in this matter, we decline to grant appellant permission to file documents in proper person in this court. See NRAP 46(b). Accordingly, the clerk of this court shall return to appellant unfiled all proper person documents appellant has submitted to this court in this matter.

cc: Hon. Donald M. Mosley, District Judge
Kenneth G. Frizzell III
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk
Herbert Van Harris