

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL EUGENE POISEL A/K/A
MICHAEL EUGENE PLISEL A/K/A
MICHAEL POISEO A/K/A JAMES
POISEL A/K/A MICHAEL PASLEY
A/K/A MIKE PAISEL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45595

FILED

JAN 24 2006

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of one count of robbery with a deadly weapon, four counts of assault with a deadly weapon, and one count each of burglary and resisting a public officer with a dangerous weapon. Fourth Judicial District Court, Elko County; Andrew J. Puccinelli, Judge. The district court sentenced appellant Michael Eugene Poisel to serve a prison term of 72 to 180 months for robbery and an equal and consecutive prison term for the use of a deadly weapon. The district court imposed concurrent prison terms for Poisel's remaining crimes.

Poisel's sole contention on appeal is that the district court abused its discretion when, after acknowledging his remorse, it imposed the maximum sentence prescribed by statute for robbery with the use of a deadly weapon. We conclude that Poisel'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, Poisel 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 is within the parameters provided by the relevant statutes,⁴ and that Poisel was informed of the potential penalties for his crimes prior to entering his guilty plea.

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

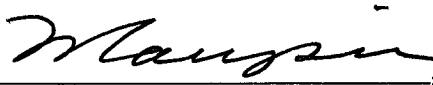
²Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

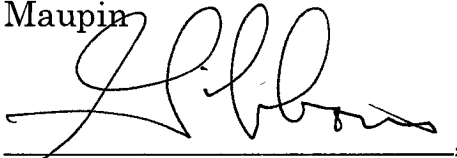
³Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)).

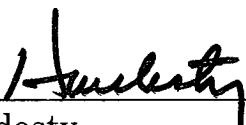
⁴See NRS 200.380(2) (robbery is punishable by a prison term of 2 to 15 years); NRS 193.165(1) (requires an equal and consecutive sentence for crimes committed with the use of a deadly weapon).

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

ORDER the judgment of conviction AFFIRMED.


_____, J.
Maupin


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Andrew J. Puccinelli, District Judge
Elko County Public Defender
Attorney General George Chanos/Carson City
Elko County District Attorney
Elko County Clerk