

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHAREEF AZEEZ ALI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46182

FILED

JUL 07 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 possession of a controlled substance for the purpose of sale. Second Judicial District Court, Washoe County; Jerome Polaha, Judge. The district court sentenced appellant Shareef Azeez Ali to serve a prison term of 19 to 48 months.

Ali contends that the district court abused its discretion because the sentence imposed is too harsh given that he "had a serious substance abuse problem which undoubtedly fueled much of his criminal behavior," and that he had made efforts to address his issues by locating a drug treatment program. Citing to United States v. Booker¹ and the dissent in Tanksley v. State,² Ali contends that this court should review the sentence imposed by the district court to determine whether justice was done. We conclude that Ali's contention lacks merit.

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

¹543 U.S. 220 (2005) (holding, in part, that proper standard of appellate review for federal sentencing decisions was unreasonableness).

²113 Nev. 844, 852, 944 P.2d 240, 245 (1997) (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 Moreover, regardless of its severity, a sentence that is within the statutory limits is not “cruel and unusual punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience.”⁴

In the instant case, Ali does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant sentencing statutes are unconstitutional. Moreover, the sentence imposed was within the parameters provided by the relevant statutes.⁵ Finally, the sentence imposed is not so unreasonably disproportionate to the crime as to shock the conscience. We note that the instant offense involved the sale of crack cocaine. Further, the record indicates that Ali had previously absconded from the sentencing hearing after reading the presentence report, and had a significant criminal history, including numerous felony and misdemeanor convictions. Accordingly, we conclude that the district court did not abuse its discretion at sentencing.

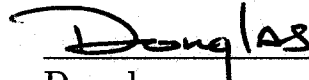
³Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976); Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).


⁴Blume 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)); see also Glegola v. State, 110 Nev. 344, 348, 871 P.2d 950, 953 (1994).

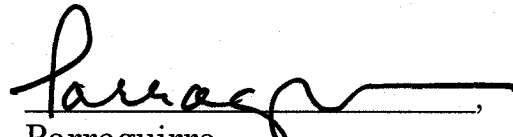
⁵See NRS 453.337(2)(a); NRS 193.130(2)(d) (providing for a prison sentence of 1 to 4 years).

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

ORDER the judgment of conviction AFFIRMED.⁶


_____, J.
Douglas


_____, J.
Becker


_____, J.
Parraguirre

cc: Hon. Jerome Polaha, District Judge
John P. Calvert
Attorney General George Chanos/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk
Shareef Azeez Ali

⁶Because Ali is represented by counsel in this matter, we decline to grant him permission to file documents in proper person in this court. See NRAP 46(b). Accordingly, the clerk of this court shall return to Ali unfiled all proper person documents that he has submitted to this court in this matter.