

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALAN SCOTT HANES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46184

FILED

MAR 27 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY J. R. [Signature]
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of two counts of robbery with the use of a deadly weapon. Second Judicial District Court, Washoe County; Robert H. Perry, Judge. The district court sentenced appellant Alan Scott Hanes to two concurrent prison terms of 72 to 180 months with equal and consecutive terms for the use of a deadly weapon.

Hanes' sole contention is that the district court abused its discretion at sentencing because the sentence is too harsh in light of the fact that he suffers from hepatitis B and C. We conclude that Hanes' 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, Hanes 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 statutes.⁴

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

ORDER the judgment of conviction AFFIRMED.

Douglas, J.
Douglas

Becker, J.
Becker

Parraguirre, J.
Parraguirre

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); NRS 193.165(1).

cc: Hon. Robert H. Perry, District Judge
Scott W. Edwards
Attorney General George Chanos/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk