

IN THE SUPREME COURT OF THE STATE OF NEVADA

SCOTT ANTHONY KANVICK,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 46224

**FILED**

JUN 29 2006

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of possession of a stolen motor vehicle. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge. The district court sentenced appellant Scott Kanvick to serve a prison term of 19 to 49 months.

Kanvick contends the district court considered inappropriate information when making its sentencing decision. He claims that the district court impermissibly relied on the victim's statements that she suspected that Kanvick broke into her car and stole things on a previous occasion, that she knew some of the women that he had "battered horribly and almost to death," and that he deserved to be in prison.

This court has consistently afforded the district court wide discretion in its sentencing decision.<sup>1</sup> 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."<sup>2</sup> Moreover, a sentence within the statutory limits is not

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

<sup>2</sup>Silks 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.<sup>3</sup>

In the instant case, the victim admitted at sentencing that she did not know for sure that Kanvick was the one who previously broke into her car, and Kanvick admitted that he had previously been convicted of domestic battery. Additionally, evidence was presented at sentencing of Kanvick's lengthy criminal history. We therefore conclude that Kanvick has not demonstrated that the district court relied solely on palpable or highly suspect evidence.

Kanvick's claim that the district court abused its discretion by imposing the sentence in another case to run consecutively to the sentence in this case is also without merit.<sup>4</sup> We further note that Kanvick did not challenge the constitutionality of the relevant statutes and that the sentence imposed by the district court is within the statutory limits.<sup>5</sup>

---

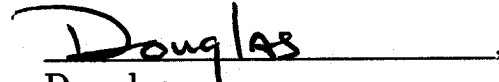
<sup>3</sup>Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (citing Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)).


<sup>4</sup> See NRS 176.035(1); Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967).

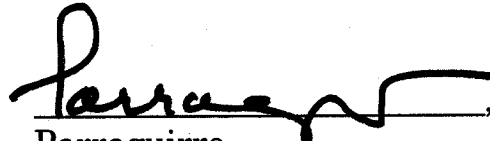
<sup>5</sup> See NRS 205.273(3); 193.130(2)(c).

Accordingly, we

ORDER the judgment of conviction AFFIRMED.

 \_\_\_\_\_, J.  
Douglas

 \_\_\_\_\_, J.  
Becker

 \_\_\_\_\_, J.  
Parraguirre

cc: Hon. Steven R. Kosach, District Judge  
Jenny Hubach  
Attorney General George Chanos/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk