

IN THE SUPREME COURT OF THE STATE OF NEVADA

GLENN ROGER GAINES, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46233

FILED

MAR 16 2006

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of trafficking in a controlled substance. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge. Appellant Glenn Gaines was sentenced to a prison term of 10-25 years, consecutive to a case of his in California.

Gaines' sole contention on appeal is that the district court abused its discretion by sentencing appellant to a consecutive rather than a concurrent sentence. We conclude that appellant'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,

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

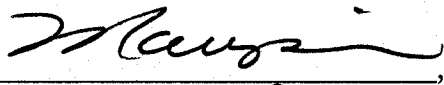
²Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

and the sentence is not so unreasonably disproportionate to the crime as to shock the conscience.³

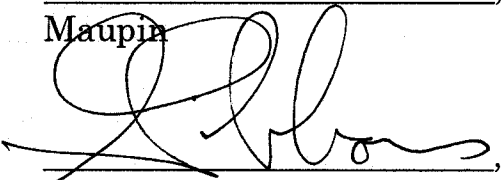
In the instant case, Gaines does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. Further, we note that the sentence imposed is within the parameters provided by the relevant statute.⁴ Moreover, it is within the district court's discretion to impose consecutive sentences.⁵

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

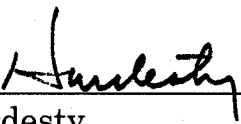
ORDER the judgment of conviction AFFIRMED.



Maupin J.



Gibbons J.



Hardesty J.

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 453.3385(3)(b).

⁵See NRS 176.035(1); Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967).

cc: Hon. Connie J. Steinheimer, District Judge
Bruce D. Voorhees
Attorney General George Chanos/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk