

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM RADEMACHER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46413

FILED

APR 07 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, entered pursuant to a guilty plea, of one count of burglary. Second Judicial District Court, Washoe County; Janet J. Berry, Judge. The district court sentenced appellant William Rademacher to serve a prison term of 48 to 120 months.

Rademacher's sole contention on appeal is that the district court abused its discretion by basing his sentence on an unsupported belief that he is "addicted to stealing." We disagree.

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 as to shock the conscience.³

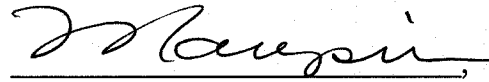
After pronouncing sentence, the district court observed, "Mr. Rademacher, I don't disagree with you. Guys like you who have been in the system will get out and do the same thing, you are addicted to heroin and you are also addicted to stealing." We conclude that this observation does not demonstrate that the district court considered something other than reliable information in reaching its sentencing decision. We note that Rademacher's attorney informed the sentencing court that Rademacher has a criminal history dating back to 1969, and that Rademacher is a heroin addict who supports his habit by entering businesses, stealing property, and then pawning the property. The State observed that between his January 2005 release and his May 2005 rearrest, Rademacher made 43 pawns with property he stole from various businesses. And Rademacher's presentence investigation report indicates that he has 15 prior convictions, 11 of which involve some form of larceny or burglary. We further note that Rademacher's sentence is within the parameters provided by the relevant statute,⁴ and that Rademacher was informed of the potential penalties for his crimes prior to entering his guilty plea.

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 205.060(2) (burglary is punishable by a prison term of 1 to 10 years).

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

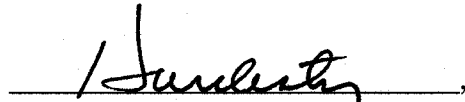
ORDER the judgment of conviction AFFIRMED.

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

cc: Hon. Janet J. Berry, District Judge
Washoe County Public Defender
Attorney General George Chanos/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk