

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM RICHARD DUCLOS, AKA,  
THOMAS DUCLOS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 47284

**FILED**

**AUG 14 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 attempted robbery. Second Judicial District Court, Washoe County; Brent T. Adams, Judge. The district court sentenced appellant William Richard Duclos to serve a prison term of 22 to 96 months.

Duclos contends that the district court abused its discretion by sentencing him based on highly suspect evidence. Specifically Duclos argues that the harsh sentence imposed is a result of the sentencing court's mistaken belief about Duclos' criminal history and prior use of aliases. Citing to the dissent in Tanksley v. State,<sup>1</sup> Duclos asks this court to review the sentence to see that justice was done. We conclude that Duclos's contention lacks merit.

This court has consistently afforded the district court wide discretion in its sentencing decision and 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

---

<sup>1</sup>113 Nev. 844, 852, 944 P.2d 240, 245 (1997) (Rose, J., dissenting).

evidence."<sup>2</sup> 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."<sup>3</sup>

In the instant case, Duclos does not allege that the sentencing statutes are unconstitutional or that the sentence imposed is unreasonably disproportionate to the crime. Additionally, although the sentence was harsher than the 12-to-36 month sentence recommended by the State, the sentence imposed was within the parameters provided by the relevant statutes.<sup>4</sup> Finally, there is no indication that the district court based its sentencing decision on a mistaken belief about Duclos's criminal history or use of aliases,<sup>5</sup> or failed to consider appropriate sentencing factors.<sup>6</sup> At the sentencing hearing, Duclos advised the sentencing court about the inaccuracies in the presentence investigation report, but in doing so, admitted that he had been incarcerated three times and had used several aliases. Before imposing sentence, the district court commented that Duclos needed to go to prison to protect society.

---

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

<sup>3</sup>Blume 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).

<sup>4</sup>See NRS 200.380(2); NRS 193.330(1)(a)(2).

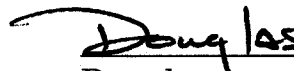
<sup>5</sup>Cf. Norwood v. State, 112 Nev. 438, 440, 915 P.2d 277, 278 (1996).


<sup>6</sup>See Denson v. State, 112 Nev. 489, 492, 915 P.2d 284, 286 (1996).

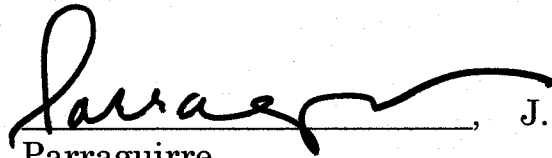
Accordingly, we conclude that the district court did not impose an excessive sentence based on impalpable evidence.

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

ORDER the judgment of conviction AFFIRMED.

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

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

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

cc: Hon. Brent T. Adams, District Judge  
Washoe County Public Defender  
Attorney General George Chanos/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk