

IN THE SUPREME COURT OF THE STATE OF NEVADA

ORLANDO IGNATIUS BLACK,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 48073

**FILED**

**DEC 21 2006**

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of one count of failure to register as a sex offender. Second Judicial District Court, Washoe County; Brent T. Adams, Judge. The district court sentenced appellant Orlando Ignatius Black to serve a prison term of 18 to 48 months.

Black contends that he is entitled to a new sentencing hearing because the district court based its sentencing determination on his criminal history and not the offense for which he was convicted.

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

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

suspect evidence."<sup>2</sup> Moreover, a sentence within the statutory limits is not 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>

Here, Black does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant sentencing statutes are unconstitutional. Rather, he contends that the district court improperly relied upon his criminal history to fashion its sentencing decision. However, because the district court may "consider a wide, largely unlimited variety of information to insure that the punishment fits not only the crime, but also the individual defendant,"<sup>4</sup> we conclude that the district court's consideration of Black's criminal history was not improper or an abuse of discretion. We further note that the district court imposed a sentence that falls within the parameters provided by the relevant statutes.<sup>5</sup>

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


<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)).

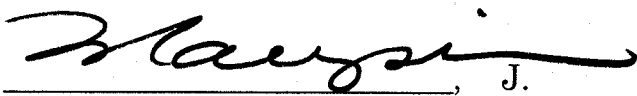
<sup>4</sup>Martinez v. State, 114 Nev. 735, 738, 961 P.2d 143, 145 (1998); see also NRS 176.015(6).

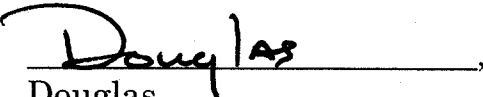
<sup>5</sup>See NRS 179D.550 (a sex offender who fails to register is guilty of a category D felony); NRS 193.130(2)(d) (a category D felony is punishable by imprisonment for a period of 1 to 4 years).

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

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Maupin

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

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