

IN THE SUPREME COURT OF THE STATE OF NEVADA

PEGGY SUE VOWELS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48491

FILED

APR 04 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a plea of no contest, of one count of sale and/or another unauthorized act relating to controlled substances. Fourth Judicial District Court, Elko County; J. Michael Memeo, Judge. The district court sentenced appellant to a prison term of 12 to 30 months.

Appellant's sole contention is that the district court abused its discretion by refusing to grant probation. 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, regardless of its severity, a sentence that is within the statutory limits is not "cruel and unusual punishment unless

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

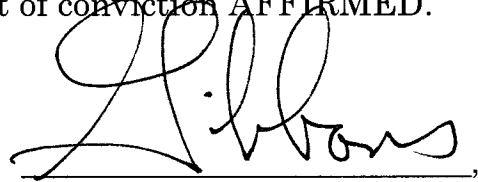
²Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

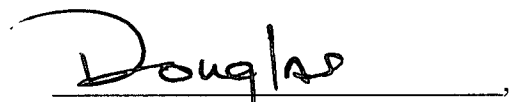
the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience."³

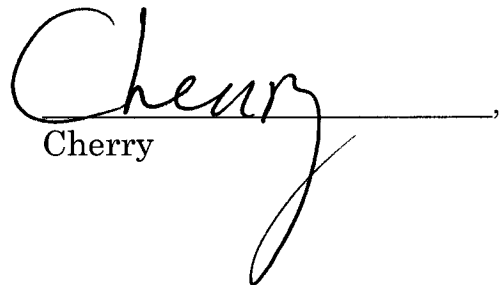
In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. Further, we note that the sentence imposed is within the parameters provided by the relevant statute.⁴ Moreover, the granting of probation is discretionary.⁵

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

ORDER the judgment of conviction AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

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)); see also Glegola v. State, 110 Nev. 344, 348, 871 P.2d 950, 953 (1994).

⁴See NRS 453.321(2)(a).

⁵See NRS 176A.100(1)(c).

cc: Hon. J. Michael Memeo, District Judge
Elko County Public Defender
Attorney General Catherine Cortez Masto/Carson City
Elko County District Attorney
Elko County Clerk