

IN THE SUPREME COURT OF THE STATE OF NEVADA

MIKE I. ROOFE A/K/A MIKE ROOFE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49085

FILED

JUN 22 2007

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of one count of uttering a forged instrument. Second Judicial District Court, Washoe County; Brent T. Adams, Judge. The district court sentenced appellant Mike Roofe to serve a prison term of 12 to 34 months and ordered him to pay restitution in the amount of \$250.00.

Roofe contends that the district court abused its discretion at sentencing by incarcerating him in prison instead of placing him on probation where he could get treatment for his mental illness and substance abuse problems. He requests a new sentencing hearing, before a different judge, in which "probation with several applicable and relevant conditions can be imposed as part of the structured life [he] will have to lead for fear of being returned to prison."

We have consistently afforded the district court wide discretion in its sentencing decision.¹ We 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 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.³

Roofe 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 statutes,⁴ and that the granting

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).

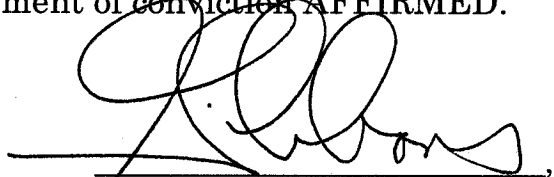
³Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)).

⁴See NRS 193.130(2)(d) (a category D felony is punishable by a prison term of 1 to 4 years); NRS 205.090 (forgery is a category D felony); NRS 205.100(1) (uttering a forged instrument is punishable as forgery).

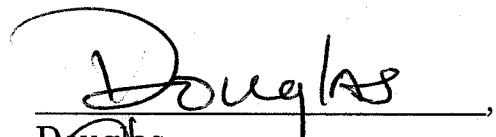
of probation is discretionary.⁵ Accordingly, we conclude that the district court did not abuse its discretion at sentencing.

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

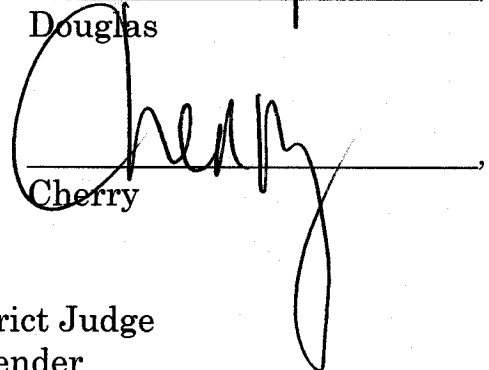
ORDER the judgment of conviction AFFIRMED.



Gibbons J.



Douglas J.



Cherry J.

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

⁵See NRS 176A.100(1)(c).