

IN THE SUPREME COURT OF THE STATE OF NEVADA

NAU ANTONIO RIVERA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49402

FILED

NOV 20 2007

DANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of one count of robbery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge. The district court sentenced appellant Nau Antonio Rivera to serve two consecutive prison terms of 24 to 60 months.

Rivera contends that the district court abused its discretion by imposing a sentence that amounts to cruel and unusual punishment. We disagree.

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

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).

sentence is not so unreasonably disproportionate as to shock the conscience.³


Rivera 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 falls within the parameters provided by the relevant statutes⁴ and that a grant of probation is discretionary.⁵ Accordingly, we conclude that the district court did not abuse its discretion at sentencing.

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

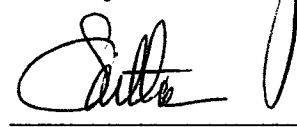
ORDER the judgment of the district court AFFIRMED.


_____ J.

Gibbons


_____ J.

Cherry


_____ J.

Saitta

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 200.380(2) (robbery is punishable by a prison term of 2 to 15 years); NRS 193.165(1) (requires an equal and consecutive sentence for crimes committed with the use of a deadly weapon).

⁵See NRS 176A.100(1)(c).

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk