

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHAWN MICHAEL THOMAS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49587.

FILED

MAR 27 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of robbery. Second Judicial District Court, Washoe County; Janet J. Berry, Judge. The district court sentenced appellant Shawn Michael Thomas to serve a prison term of 48 to 120 months.

Thomas contends that the district court abused its discretion by imposing an excessive sentence. Specifically, citing to the dissent in Tanksley v. State,¹ Thomas contends that the district court failed to consider his mental illness, the severity of his drug addiction, and his need for treatment. Thomas claims that he should have been granted probation so that he could seek treatment or, in the alternative, sentenced to the minimum term allowable.

¹Tanksley v. State, 113 Nev. 844, 850, 944 P.2d 240, 244 (1997) (Rose, J., dissenting).

This court has consistently afforded the district court wide discretion in its sentencing decision.² 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.”³ Moreover, regardless of its severity, “[a] sentence 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.’”⁴

In the instant case, Thomas 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 was within the parameters provided by the relevant statute.⁵ Finally, we note that it is within the discretion of the district court to grant probation.⁶ Therefore, we conclude that the district court did not abuse its discretion at sentencing.

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

³Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).


⁴Blume 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).

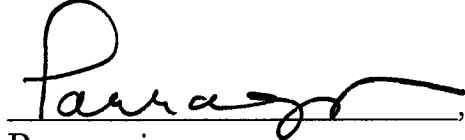
⁵See NRS 200.380(2).

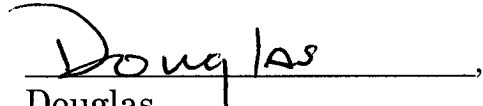
⁶See NRS 176A.100(1)(c).

Having considered Thomas' contention and determined that it has no merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. Janet J. Berry, District Judge
Jenny Hubach
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk