

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARTIN BUCKLEY A/K/A MARTIN  
ANTHONY BUCKLEY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 50072

**FILED**

DEC 14 2007

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of possession of credit or debit card without cardholder's consent. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge. The district court sentenced appellant Martin Buckley to serve a prison term of 18 to 48 months.

Buckley's sole contention is that the district court abused its discretion at sentencing and the sentence constitutes cruel and unusual punishment given that his crime did not result in physical injury or actual loss to the victim. We conclude that Buckley's contention is without merit.

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 suspect evidence."<sup>2</sup> Moreover, regardless of its severity, a sentence that is

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


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

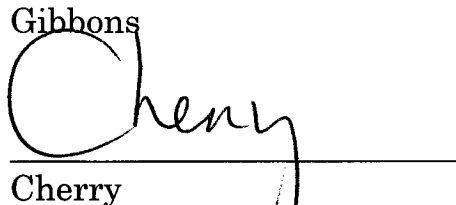
within the statutory limits is not "cruel and unusual punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience."<sup>3</sup>

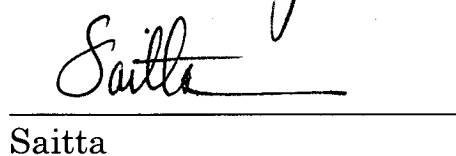
In the instant case, Buckley does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statutes.<sup>4</sup> Therefore, we conclude that the district court did not abuse its discretion at sentencing.

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

ORDER the judgment of conviction AFFIRMED.

 J.

Gibbons  
 J.

Cherry  
 J.

Saitta

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

<sup>4</sup>See 205.690(2); NRS 193.130(2)(d).

cc: Hon. Donald M. Mosley, 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