

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER ROBERT FRANKLIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50591

FILED

APR 22 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, entered pursuant to a guilty plea, of two counts of robbery with the use of a deadly weapon. Second Judicial District Court, Washoe County; Brent T. Adams, Judge. For each of the two counts, the district court sentenced appellant Christopher Franklin to serve a prison term of 36 to 120 months for robbery and a consecutive term of 12 to 120 months for the use of a deadly weapon. The district court imposed the sentences to run concurrently.

Franklin contends that the district court abused its discretion by imposing an excessive sentence. Franklin claims that the district court “did not appear to consider factors such as his youth, lack of criminal history, or probable substance abuse problem.” And Franklin argues that “[s]ociety’s interest could have been better achieved by a shorter period of incarceration, perhaps even to a strict, long term, in-patient treatment facility.” Franklin requests a new sentencing hearing before a different judge.

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 to the crime as to shock the conscience.³

Franklin 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 Accordingly, we conclude that the district court did not abuse its discretion at sentencing.

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

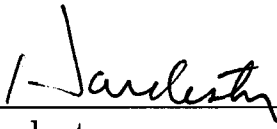
²Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

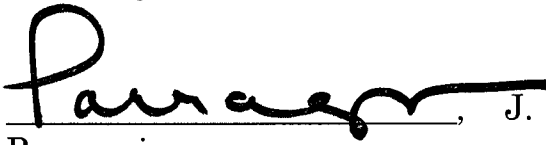
³Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)).

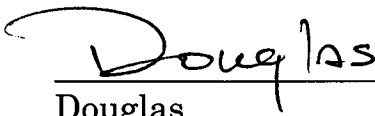
⁴See NRS 200.380(2) (robbery is punishable by a prison term of 2 to 15 years); NRS 193.165(1) (the use of a deadly weapon while committing a crime is punished by an additional prison term of 1 to 20 years).

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

ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

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