IN THE SUPREME COURT OF THE STATE OF NEVADA

CHAD SAGANEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 51638

FILED

OCT 17 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of attempt to commit sexual assault. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge. The district court sentenced appellant Chad Saganey to a prison term of 50 to 144 months.

Saganey contends that the district court abused its discretion at sentencing and the sentence was excessive. Specifically, citing to the dissent in Tanksley v. State,[1] Saganey contends that the district court failed to consider that he confessed to his crime and was completely candid and cooperated with the State.

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

[1]113 Nev. 844, 850, 944 P.2d 240, 244 (1997) (Rose, J., dissenting).

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

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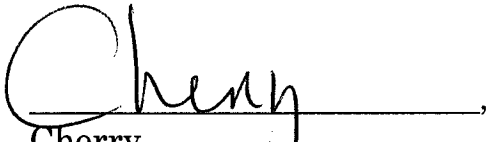
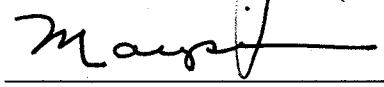
suspect evidence."[3] Moreover, regardless of its severity, "[a] sentence within the statutory limits is not 'cruel and unusual punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience.'"[4]

In the instant case, Saganey 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.[5] Therefore, we conclude that the district court did not abuse its discretion at sentencing. Accordingly we

ORDER the judgment of conviction AFFIRMED.



_____, J.
Cherry



_____, J.
Maupin

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

[4]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).

[5]See NRS 200.366(2) (defining sexual assault as a category A felony); NRS 193.330(1)(a)(1) (providing for a prison term of 2 to 20 years for an attempt to commit a category A felony).

cc: Hon. Steven P. Elliott, District Judge
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Attorney General Catherine Cortez Masto/Carson City
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Washoe District Court Clerk