

IN THE SUPREME COURT OF THE STATE OF NEVADA

JONATHAN JOSHUA CARMONA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 51701

FILED

FEB 26 2009

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 five counts of robbery with the use of a deadly weapon. Second Judicial District Court, Washoe County; Robert H. Perry, Judge. The district court sentenced appellant Jonathan Joshua Carmona to 35 to 120 months in prison for robbery, with a consecutive term of 35 to 120 months for the use of a deadly weapon, for each of the five counts, with the sentence for each count to run consecutively.

Carmona contends that the sentence imposed by the district court is excessive and an abuse of discretion given the facts of the case and the nature of the defendant. Carmona cites to the dissent in Tanksley v. State, 113 Nev. 844, 944 P.2d 240 (1997) (Rose, J., dissenting), and the concurrence in Santana v. State, 122 Nev. 1458, 148 P.3d 741 (2006) (Rose, J., concurring), in support of his argument. Carmona argues that the case should be remanded to the district court "with instructions to re-sentence [him] to concurrent time." We disagree.

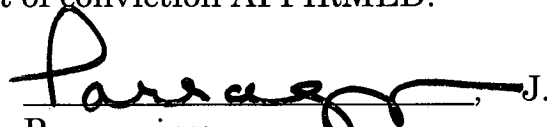
This court has consistently afforded the district court wide discretion in its sentencing decision. See Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). This court will refrain from interfering with the sentence imposed "[s]o long as the record does not demonstrate

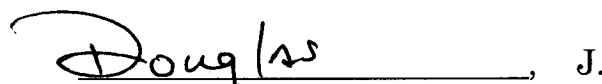
prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence.” Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). A sentence within statutory limits is not cruel and unusual punishment where the statute itself is constitutional and the sentence is not so unreasonably disproportionate to the crimes as to shock the conscience. Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996).

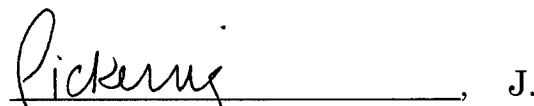
We conclude that the district court did not abuse its discretion at sentencing and the sentence imposed is not excessive or disproportionate to the crimes. In the instant case, Carmona committed five separate armed robberies over a period of ten days, including a carjacking at gunpoint from a mother and her small children. At sentencing, the district court noted that Carmona previously served a prison term for a crime of violence with the use of a deadly weapon. Carmona does not claim that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. And the sentences imposed are within the statutory parameters. See NRS 200.380(2) and 193.165.

Having considered Carmona’s contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.


Parraguirre


Douglas


Pickering

cc: Hon. Robert H. Perry, District Judge
Washoe County Alternate Public Defender
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk