

IN THE SUPREME COURT OF THE STATE OF NEVADA

FAITH ELIZABETH NEAL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 51753

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, entered pursuant to a guilty plea, of two counts of burglary. Second Judicial District Court, Washoe County; Brent T. Adams, Judge. The district court sentenced Faith Elizabeth Neal to serve two consecutive prison terms of 36 to 90 months.

Neal contends that the district court abused its discretion at sentencing by “simply following the prosecutor’s sentencing recommendations” and failing to justify, on the record, why Neal should not be sentenced to the drug court program instead of prison or, alternatively, why she should not be permitted to serve her two prison terms concurrently rather than consecutively. Citing to the dissent in Tanksley v. State, 113 Nev. 844, 850-53, 944 P.2d 240, 244-45 (1997) (Rose, J., dissenting), Neal contends this court should review the sentence imposed by the district court to determine, in light of the specific “facts of the case and the nature of the defendant,” whether justice was done. We conclude that Neal’s contention is without merit.

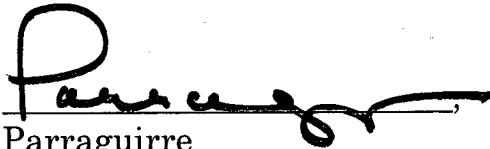
This court has consistently afforded the district court wide discretion in its sentencing decision. See Houk v. State, 103 Nev. 659,

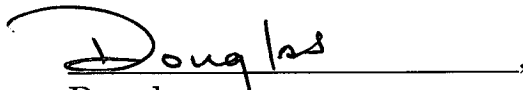
664, 747 P.2d 1376, 1379 (1987). This court will refrain from interfering with the sentence imposed “[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence.” Silks v. State, 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).

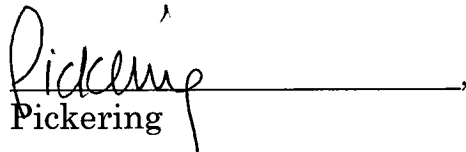
Neal does not claim that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. Neal and her counsel asked for placement in drug court and notified the district court that she had been accepted into the program. Alternatively, counsel argued for the sentence set forth in the plea negotiations. The State pointed out that Neal previously had been given multiple opportunities to try to “clean up,” including drug court and other programs, but she had not been successful. The State also pointed out that Neal had failed to appear at an earlier sentencing hearing, and thus, the State was permitted to argue for the longer sentence. At the plea canvass, the district court reduced bail and warned Neal that if she was released from custody and failed to appear she would “receive the maximum sentence.” The court did not impose the maximum sentence, and the sentences imposed fall well within the statutory parameters. See NRS 205.060(2). Moreover, it is within the district court’s discretion to impose consecutive sentences. See NRS 176.035(1). Accordingly, we conclude that Neal has failed to demonstrate that the district court abused its discretion at sentencing.

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

ORDER the judgment of conviction AFFIRMED.

 J.
Parraguirre

 J.
Douglas

 J.
Pickering

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