


IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANCISCO JAVIER SERRATO-TORRES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52181

FILED

JUN 26 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of one count of battery with a deadly weapon. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge. The district court sentenced appellant Francisco Javier Serrato-Torres to serve a prison term of 24 to 72 months.

Serrato-Torres contends that the district court abused its discretion at sentencing. Serrato-Torres claims that the district court was informed that he was participating in a State-approved domestic violence program and had completed a level one anger management program at Nevada Court Counseling, Inc.; he was participating in the Alcoholics Anonymous 12-step program; and both his employer and former employer considered him a hard worker. Serrato-Torres argues that "because of the hard work he did to rehabilitate himself, he should have received probation instead of a prison sentence."

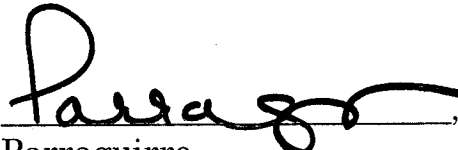
We have consistently afforded the district court wide discretion in its sentencing decision. See Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). We will refrain from interfering with the

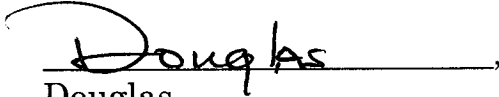
sentence imposed “[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence.” Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). A sentence within the statutory limits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

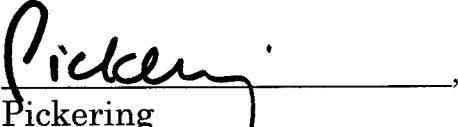
Serrato-Torres does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. Further, we note that the sentence imposed falls within the parameters provided by the relevant statute, see NRS 200.481(2)(e), and that the granting of probation is discretionary, see NRS 176A.100(1)(c). Accordingly, we conclude that the district court did not abuse its discretion at sentencing.

Having considered Serrato-Torres’ contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.

 J.
Parraguirre

 J.
Douglas

 J.
Pickering

cc: Hon. Patrick Flanagan, District Judge
Carter R. King
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk