

IN THE SUPREME COURT OF THE STATE OF NEVADA

KEITH MCPHERSON KEMP,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52367

FILED

JUN 03 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 one count of possession of a firearm by an ex-felon and one count of coercion. Eighth Judicial District Court, Clark County; Jennifer Togliatti, Judge. The district court sentenced appellant Keith McPherson Kemp to serve two concurrent prison terms of 12 to 72 months and imposed the sentence to run consecutively to the sentence in another case.


Kemp contends that the district court abused its discretion at sentencing. Kemp specifically claims that "the sentence, which shall run consecutive to C192671X, amounted to cruel and unusual punishment" because he did not "physically injure the victim, but rather damaged the vehicle." Kemp notes that the Nevada Constitution prohibits the infliction of cruel and unusual punishment, and he argues that this court "has the right and duty to review the decisions of district court judges to determine if they have abused their discretion in imposition of sentences."


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

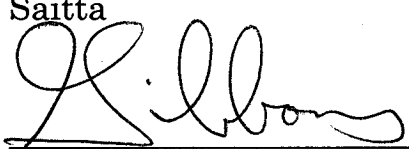
sentence imposed “[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence.” Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). A sentence within the statutory limits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

Kemp does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. We note that the sentences imposed are within the parameters provided by the relevant statutes. See NRS 202.360(1)(a); NRS 207.190(2)(a). We also note that the district court has discretion to impose consecutive sentences. See NRS 176.035(1). We conclude that Kemp’s contention is without merit, and we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Jennifer Togliatti, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk