

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT LLOYD KING,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53069

FILED

APR 21 2009

TRACIE LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of burglary. Second Judicial District Court, Washoe County; Brent T. Adams, Judge. The district court sentenced appellant Robert Lloyd King to serve a prison term of 48 to 120 months.

King contends the district court abused its discretion at sentencing, and he asks this court to vacate his sentence and remand for a new sentencing hearing before a different district court judge. King claims that the district court based its sentencing decision on incorrect information in the presentence investigation report regarding his criminal history; specifically, he alleges that the presentence investigation report provided that he had been in prison six times when he had been in prison only once.

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). The district court's discretion, however, is not limitless. Parrish v. State, 116 Nev. 982, 989, 12 P.3d 953, 957

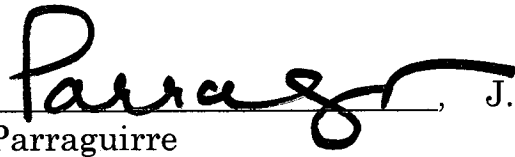
(2000). Nevertheless, we will refrain from interfering with the sentence imposed "[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence." Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976) (emphasis added). Despite its severity, 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 to the crime as to shock the conscience. Allred v. State, 120 Nev. 410, 420, 92 P.3d 1246, 1253 (2004).

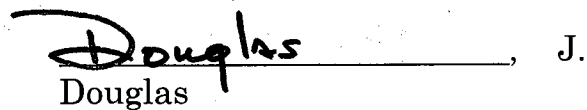
The presentence investigation report indicated that King had 11 prior felony convictions and had been sentenced to prison six times. At sentencing, King did not contest the number of prior convictions, but both he and his counsel informed the district court that he had only served one prison term, and had gone to boot camp or been placed on probation for his other convictions.

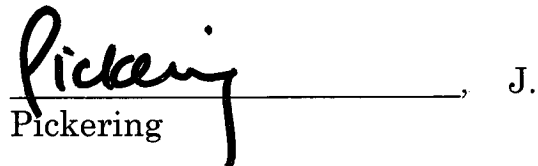
The record demonstrates that the district court did not focus on the number of prison terms King might have served when sentencing him. Rather, the district court relied on the current charges and King's numerous convictions for similar offenses. King failed to demonstrate that the district court based its sentencing decision solely on impalpable or highly suspect evidence. Further, the sentence imposed was within the parameters provided by the relevant statute. See NRS 205.060(2). Accordingly, we conclude that the district court did not abuse its discretion at sentencing.

Having considered King's contention and concluded 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 Alternate Public Defender
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk