

IN THE SUPREME COURT OF THE STATE OF NEVADA

JACK ROBERT KENTON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53880

FILED

NOV 12 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 attempted sexual assault. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge. The district court sentenced appellant Jack Robert Kenton to serve a prison term of 96 to 240 months.

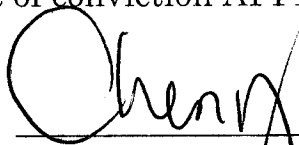
Kenton's sole contention on appeal is that the district court abused its discretion at sentencing. Specifically, Kenton asserts that the district court abused its discretion by imposing a minimum sentence longer than that recommended by his counsel at the sentencing hearing. We disagree.

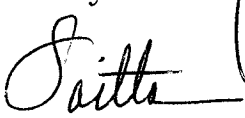
This court has consistently afforded the district court wide discretion in its sentencing decision. See Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). We will refrain from interfering with the sentence imposed "[s]o long as the record does not demonstrate prejudice resulting from consideration 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 that is within the statutory limits is not "cruel and unusual punishment unless


the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience.” Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)).

Here, Kenton has not alleged that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. Further, the sentence imposed is within the parameters provided by the relevant statutes, NRS 193.330(1)(a)(1) and NRS 200.366, and is not so unreasonably disproportionate to the offense as to shock the conscience. Accordingly, we conclude that the district court did not abuse its discretion in sentencing Kenton, and we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

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