IN THE SUPREME COURT OF THE STATE OF NEVADA

DWIGHT ANTHONY MONROE,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 34993

FILED

JUN 13 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of three counts of burglary. The district court sentenced appellant to three consecutive prison terms of 48 to 120 months. The district court further ordered appellant to submit to DNA genetic marker testing, to pay $500.00 in attorney's fees, a $25.00 administrative fee, and $22,622.33 in restitution jointly and severally with a codefendant.

Appellant first argues that the district court abused its discretion in sentencing him because "the punishment does not fit the crime" and that that district court improperly relied on appellant's uncharged conduct at sentencing. We conclude that appellant's contentions are without merit.

This court has consistently afforded the district court wide discretion in its sentencing decision. See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (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).

Moreover, "a sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional." Griego v. State, 111 Nev. 444, 447, 893 P.2d 995, 997-98 (1995) (citing Lloyd v. State, 94 Nev. 167, 170, 576 P.2d 740, 742 (1978)).

In the instant case, appellant does not allege that the relevant statute is unconstitutional, only that the punishment does not fit the crime. However, appellant's contention here is without merit because the sentence imposed was within the parameters provided by the relevant statutes. See NRS 205.060; NRS 176.035. With regard to the written report of appellant's uncharged conduct, we conclude that we need not consider this issue because appellant failed to object to the report at sentencing. See Smith v. State, 112 Nev. 871, 920 P.2d 1002 (1996); Emmons v. State, 107 Nev. 53, 61, 807 P.2d 718, 723 (1991) (as a general rule, the failure to object below bars appellate review, except in cases of plain error or errors of constitutional dimension). Moreover, based on our review of the record, it appears that although the district court received the report of appellant's prior uncharged conduct from the Northern Nevada Repeat Offender Program, it did not rely on the report in determining the appropriate sentence. Accordingly, we conclude that appellant's contention lacks merit.

Next, appellant argues that the State breached the plea agreement by failing to dismiss other pending charges against appellant. Every assertion regarding matters in the record should be supported by an appropriate citation to the record. See NRAP 3C(e)(2); NRAP 28(e). Here, appellant's allegation is completely unsupported by any citation to the record. Moreover, in the fast track response, the State represents to this court that the dismissal of those charges

is currently pending before the district court. Therefore, we conclude that we need not consider appellant's argument on this issue.

Having considered appellant's contentions and concluded that they are without merit, we

ORDER this appeal dismissed.

Maupin, J.

Shearing, J.

Becker, J.

cc: Hon. Jerome M. Polaha, District Judge
Attorney General
Washoe County District Attorney
M. Jerome Wright
Washoe County Clerk