

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES B. SCOTT,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 35139

**FILED**

MAR 30 2000

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

JAMES B. SCOTT,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 35140

JAMES B. SCOTT,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 35145

ORDER DISMISSING APPEALS

These are consolidated appeals from judgments of conviction entered pursuant to guilty pleas of two counts of grand larceny (cases numbered CR99-1677 and CR99 1695) and one

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count of burglary (case number CR99-1678).<sup>1</sup> The district court sentenced appellant to three consecutive terms of 40 to 120 months in the Nevada State Prison. Appellant contends that the district court abused its discretion at sentencing and that the State breached the plea agreement. Appellant's contentions are without merit.

Specifically, appellant contends that the district court had already decided what sentences to impose prior to considering the evidence and arguments presented at the sentencing hearing. He claims that the district court disregarded the arguments of counsel and mitigating evidence that the crimes at issue were not violent offenses. We disagree. The district judge's comments that he had spent a lot of time thinking about the case and that he had previously considered a portion of the presentence report do not indicate a disregard of the proceedings before him or a predetermined sentence, but rather reflect simply that he had prepared for the hearing.<sup>2</sup> Moreover, we note that appellant has an extensive criminal history and the plea negotiations included the State's agreement not to seek a habitual criminal enhancement and the dismissal of several other charges.

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<sup>1</sup>We consolidated these appeals pursuant to NRAP 3(b) on January 7, 2000.

<sup>2</sup>Further, the transcript reflects that the judge listened to and acknowledged the factual corrections counsel and appellant made regarding the presentence report.


As appellant observes, 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). Appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. The sentences imposed are within the statutory limits. See Griego v. State, 111 Nev. 444, 447, 893 P.2d 995, 997-98 (1995); Lloyd v. State, 94 Nev. 167, 576 P.2d 740 (1978). The district court did not abuse its discretion.


Appellant also claims that the State breached the plea agreement by arguing for consecutive sentences in violation of the written plea agreement. The plea memorandum for case number CR99-1677 provided that the State would recommend that the sentence in that case should run concurrent to the sentence previously imposed in appellant's probation revocation case (case number CR98-2837). The State asked the court to sentence appellant "based on our plea bargain in this case." At no time did the State request that the CR99-1677 run consecutive to CR98-2837. All three plea agreements provided that, other than the above recommendation, the State

would be free to argue for consecutive time on the three cases at issue. There was no breach.<sup>3</sup>

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

ORDER these appeals dismissed.

  
Maupin J.

  
Shearing J.

  
Becker J.

cc: Hon. James W. Hardesty, District Judge  
Attorney General  
Washoe County District Attorney  
Bruce D. Voorhees  
Washoe County Clerk

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<sup>3</sup>Also, although the district court orally stated at sentencing that all sentences would run consecutively, the written judgment of conviction for case number CR99-1677 in fact provides that the sentence run concurrently to case number CR98-2837, as provided in the plea memorandum.