

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANK J. LEBEAU,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 35216

**FILED**

MAR 17 2000

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, to two counts of being an ex-felon in possession of a firearm. The district court sentenced appellant to two consecutive terms of twenty-four (24) to sixty (60) months in Nevada State Prison.

Appellant's contentions on appeal are: first, the district court abused its discretion by sentencing appellant to a consecutive rather than a concurrent sentence; second, the district court abused its discretion by denying probation; and third, the sentence is cruel and unusual because of its harshness. We conclude 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

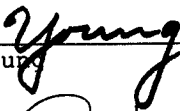
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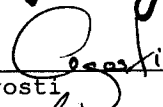
itself is constitutional." Griego v. State, 111 Nev. 444, 447, 893 P.2d 995, 997-98 (1995) (citing Lloyd v. State, 94 Nev. 167, 170, 576 P.2d 740, 742 (1978)).

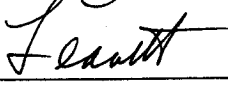
In the instant case, appellant does not allege the district court relied on impalpable or highly suspect evidence, or that the relevant statutes are unconstitutional. Further, the sentence imposed is within the parameters provided by the relevant statutes. See NRS 202.360(3); NRS 176.035(1). Moreover, it is within the district court's discretion to impose consecutive sentences. See NRS 176.100(1)(b) & (c); Warden v. Peters, 83 Nev. 298, 302-3, 429 P.2d 549, 552 (1967).

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

ORDER this appeal dismissed.<sup>1</sup>

  
\_\_\_\_\_, J.  
Young

  
\_\_\_\_\_, J.  
Agosti

  
\_\_\_\_\_, J.  
Leavitt

cc: Hon. Janet J. Berry, District Judge  
Attorney General  
Washoe County District Attorney  
Robert C. Bell  
Washoe County Clerk

<sup>1</sup>We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.