

IN THE SUPREME COURT OF THE STATE OF NEVADA

LATONYA DEE FINLEY,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 35588

FILED

JUL 13 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT

BY *J. Schade*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of possession of a controlled substance. The district court sentenced appellant to 12 to 48 months in the Nevada State Prison.

Appellant's sole contention is that the district court abused its discretion at sentencing because the sentence is too harsh and because the court abdicated its sentencing discretion to the Division of Parole and Probation by imposing the sentence recommended by the Division. We conclude that appellant's contention is 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

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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 district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statutes. See NRS 453.336; NRS 193.130. Finally, we conclude that the fact that the court imposed the sentence recommended by the Division of Parole and Probation does not establish that the district court failed to exercise its discretion in sentencing appellant.

Having considered appellant's contention and concluded that it is without merit, we

ORDER this appeal dismissed.

Young J.
Young
Agosti J.
Agosti
Leavitt J.
Leavitt

cc: Hon. James W. Hardesty, District Judge
Attorney General
Washoe County District Attorney
Washoe County Public Defender
Washoe County Clerk