

IN THE SUPREME COURT OF THE STATE OF NEVADA

ERIC L. PICKETT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 35777

FILED

JUL 26 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Zahradnik*
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 for the purpose of sale. The district court sentenced appellant to 12-32 months in prison.

Appellant's sole contention is that the district court abused its discretion by refusing to grant probation. We conclude that appellant's contention is without merit.

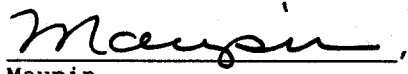
This court has consistently afforded the district court wide discretion in its sentencing decision. See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987). This court will refrain from interfering with the sentence imposed "[s]o long as the record does not demonstrate prejudice resulting from consideration 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 995, 997-98 (1995) (citing Lloyd v. State, 94 Nev. 167, 170, 576 P.2d 740, 742 (1978)).

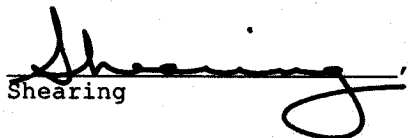
In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect


evidence or that the relevant statutes are unconstitutional. Further, we note that the sentence imposed is within the parameters provided by the relevant statutes. See NRS 453.337(2)(a); NRS 193.130(2)(d). Moreover, the granting of probation is discretionary. See NRS 176A.100(1)(c).

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

ORDER this appeal dismissed.


Maupin J.


Shearing J.


Becker J.

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