

IN THE SUPREME COURT OF THE STATE OF NEVADA

ARTHUR ALLEN CAREY,

No. 35787

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

NOV 06 2000

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of four counts of robbery with the use of a firearm, and one count of conspiracy to commit robbery with the use of a firearm. The district court sentenced appellant: for each count of robbery, to a prison term of 48 to 180 months, with a consecutive and equal term for the use of a firearm; and for conspiracy, to a term of 24 to 60 months, with an equal consecutive term for the elderly enhancement. The district court further ordered that the sentences for each count of robbery run concurrently to each other, and that the sentence for conspiracy run consecutive to the robbery counts.

Appellant argues that a witness improperly referred to appellant's status as an ex-felon, and that the district court improperly allowed the State to impeach a defense witness with evidence that the witness had a prior drug conviction. Appellant failed to object in either instance. Failure to object at the trial level generally precludes the right to assign error on appeal. *Sterling v. State*, 108 Nev.

391, 394, 834 P.2d 400, 402 (1992). Accordingly, we conclude that appellant has waived these issues.¹

Appellant contends that the evidence presented at trial was insufficient to support the jury's finding of guilt. Our review of the record on appeal, however, reveals sufficient evidence to establish guilt beyond a reasonable doubt as determined by a rational trier of fact. See *Wilkins v. State*, 96 Nev. 367, 609 P.2d 309 (1980).

In particular, we note that the victims identified appellant as the man who robbed them. The jury could reasonably infer from the evidence presented that appellant was guilty of armed robbery. It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict. See *Bolden v. State*, 97 Nev. 71, 624 P.2d 20 (1981).

Finally, appellant contends that the district court abused its discretion at sentencing because the sentence is too harsh. 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

¹Even if we were to consider these two issues, we conclude that they are without merit. In particular, we note that the comment by the witness as to appellant's ex-felon status was made in passing, and that appellant himself admitted at trial that he had suffered a felony conviction. As to the prior conviction of the defense witness, appellant cites *Yllas v. State*, 112 Nev. 863, 20 P.2d 1003 (1996). We conclude that Yllas is inapposite to the instant case because Yllas dealt with the use of a sealed conviction, and the prior conviction in this case had apparently not been sealed.

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 sentences imposed were within the parameters provided by the relevant statutes. See NRS 200.380(2); NRS 199.480(1)(a).

Having considered appellant's contentions and concluded that they are without merit, the judgment of conviction is affirmed.

It is so ORDERED.²

Young, J.
Young
Maupin, J.
Maupin
Becker, J.
Becker

cc: Hon. Steven R. Kosach, District Judge
Attorney General
Washoe County District Attorney
Hardy & Woodman
Washoe County Clerk

²We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.