

IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 35813

BRUCE H. BIRCH,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

**FILED**

SEP 06 2000

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

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of burglary. The district court sentenced appellant to a prison term of 16 to 72 months.

Appellant contends 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 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 statute is unconstitutional.

Further, we note that the sentence imposed was within the parameters provided by the relevant statute. See NRS 205.060(2).

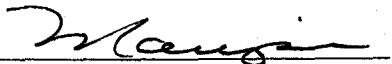
Appellant also challenges the validity of his guilty plea for the first time in this appeal. We have consistently held that we will not

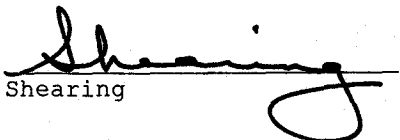
permit a defendant to challenge the validity of a guilty plea on direct appeal from the judgment of conviction. Instead, a defendant must raise a challenge to the validity of his or her guilty plea in the district court in the first instance, either by bringing a motion to withdraw the guilty plea, or by initiating a post-conviction proceeding.

Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986). Therefore, appellant's appropriate remedy is to initiate a post-conviction proceeding in the district court.

Having considered appellant's contentions and concluded that they are without merit or are not appropriate for review on direct appeal, we

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

  
Maupin J.

  
Shearing J.

  
Becker J.

cc: Hon. Donald M. Mosley, District Judge  
Attorney General  
Clark County District Attorney  
Brent D. Percival  
Clark County Clerk

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<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.