

IN THE SUPREME COURT OF THE STATE OF NEVADA

LOUIE ARLEND POTTER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 35840

FILED

JUN 07 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 one count of eluding a police officer. The district court sentenced appellant to twelve (12) to sixty (60) months in the Nevada State Prison.

Appellant's sole contention is that the district court abused its discretion at sentencing by refusing to grant probation. Appellant further contends that the district court abdicated its sentencing discretion by "simply imposing essentially the sentence sought by the Division [of Parole and Probation]." We conclude that 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 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)).

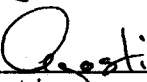
In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statute. See NRS 484.348(2). Moreover, the granting of probation is discretionary. See NRS 176A.100(1)(b).

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


ORDER this appeal dismissed.



Young J.



Agosti J.



Leavitt J.

cc: Hon. Brent T. Adams, District Judge
Attorney General
Washoe County District Attorney
Washoe County Public Defender
Washoe County Clerk