IN THE SUPREME COURT OF THE STATE OF NEVADA

CRISPULO T. BAYAOA, JR.,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 36629

FILED

JAN 16 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

CRISPULO T. BAYAOA, JR.,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 36633

ORDER OF AFFIRMANCE

These are appeals from judgments of conviction, pursuant to guilty pleas, of one count each of obtaining property by false pretenses and burglary. The district court sentenced appellant to serve two consecutive terms of 28 to 72 months in prison. We elect to consolidate these appeals for disposition. See NRAP 3(b).

Appellant contends that his guilty pleas are invalid because the district court failed to personally explain that it could impose the sentences to be served consecutively or concurrently. However, this court does not "permit a defendant to challenge the validity of a guilty plea on direct appeal from the judgment of conviction." Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986). Such a challenge must be raised in the district court in the first instance by bringing a motion to withdraw the guilty plea or by commencing a post-conviction proceeding under NRS chapter 34. Id.

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Nonetheless, we note that the record before this court clearly demonstrates that appellant understood the potential sentences, including that the district court could order that the sentences be served consecutively or concurrently. In particular, the prosecutor explained the possible sentences in detail during the plea canvass. This explanation was sufficient to assure the district court that appellant understood the potential consequences of his guilty pleas. See State v. Freese, 116 Nev. ___, ___ P.3d ___ (Adv. Op. No. 115, December 4, 2000) (reiterating that validity of guilty plea is based on totality of circumstances); Rosemond v. State, 104 Nev. 286, 756 P.2d 1180 (1988) (holding that district court is not required to explain possibility that sentences may be imposed consecutively). We therefore conclude that appellant's contention lacks merit.

Appellant also appears to ask this court to review his sentence to see that justice has been done. Appellant relies on the dissent in Tanksley v. State, 113 Nev. 844, 944 P.2d 240 (1997). We conclude that this contention also lacks 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 was within the parameters provided by the relevant statutes. See NRS 205.060; NRS 205.380.

Having considered appellant's contentions and concluded that they are without merit, we affirm the judgments of conviction.

It is so ORDERED.

Young, J.

Rose, J.

Becker, J.

cc: Hon. Steven R. Kosach, District Judge
Attorney General
Washoe County District Attorney
John E. Oakes
Washoe County Clerk