

IN THE SUPREME COURT OF THE STATE OF NEVADA

LEONARD R. MCCURRY,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 36868

FILED

JAN 18 2001

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 guilty plea, of one count of possession of a controlled substance. The district court sentenced appellant to a prison term of 19 to 48 months. The district court further ordered that the sentence run consecutive to a sentence appellant was serving for an unrelated conviction for felony driving under the influence.

Appellant's sole contention on appeal is that the district court abused its discretion by sentencing appellant to a consecutive rather than a concurrent sentence. We conclude that appellant's contention is without merit.

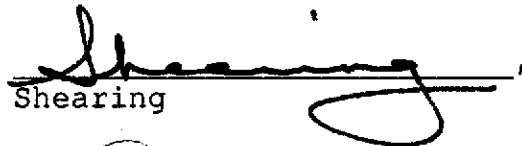
This court has consistently afforded the district court wide discretion in its sentencing decision. See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987). This court will refrain from interfering with the sentence imposed "[s]o long as the record does not demonstrate prejudice resulting from consideration 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

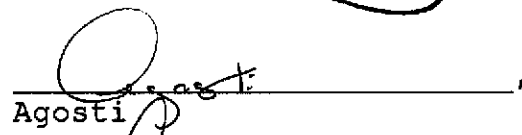
995, 997-98 (1995) (citing Lloyd v. State, 94 Nev. 167, 170, 576 P.2d 740, 742 (1978)).

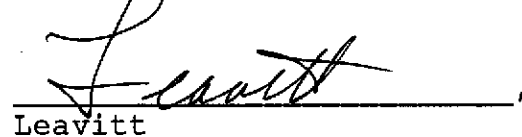
In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. Further, we note that the sentence imposed is within the parameters provided by the relevant statutes. See NRS 453.336(2)(a); NRS 193.130(2)(e). Moreover, it is within the district court's discretion to impose consecutive sentences. See NRS 176.035(1); Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967).

Having considered appellant's contention and concluding that it is without merit, the judgment of conviction is affirmed.

It is so ORDERED.


_____, J.
Shearing


_____, J.
Agosti


_____, J.
Leavitt

cc: Hon. J. Michael Memeo, District Judge
Attorney General
Elko County District Attorney
Elko County Public Defender
Elko County Clerk