IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT MICHAEL PEARSON, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 37004

FILED

JAN 18 2001

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of child abuse causing substantial mental harm in violation of NRS 200.508. The district court sentenced appellant to serve a prison term of 96-240 months, and ordered him to pay $122,298.45 in restitution and to submit to lifetime supervision commencing upon his release from any term of parole or imprisonment. Appellant was given credit for 642 days time served.

Appellant's sole contention is that the district court abused its discretion at sentencing because the sentence is too harsh. Citing the dissent in Tanksley v. State,[1] appellant argues that this court should review the sentence imposed in order to determine whether justice was done. Appellant also argues that the district court abdicated its sentencing discretion by imposing the sentence recommended 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.[2] 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."[3]

[1]113 Nev. 844, 944 P.2d 240 (1997).

[2]See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

[3]Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

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Moreover, "a sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional."[4]

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.[5] Finally, we conclude that the fact that the district court imposed the sentence recommended by the Division of Parole and Probation does not demonstrate that the court failed to exercise its sentencing discretion.

Having considered appellant's contentions and concluded that they lack merit, we affirm the judgment of conviction.

It is so ORDERED.

_____, J.
Shearing

_____, J.
Agosti

_____, J.
Leavitt

cc: Hon. Connie J. Steinheimer, District Judge
Attorney General
Washoe County District Attorney
Washoe County Public Defender
Washoe County Clerk

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[4]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)).

[5]See NRS 200.508.