

IN THE SUPREME COURT OF THE STATE OF NEVADA

GARY REYNOLDS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 37122

FILED

MAY 30 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 possession of a controlled substance (cocaine) for the purpose of sale. The district court sentenced appellant to serve 16 to 48 months in prison.

Appellant's sole contention is that the district court abused its discretion at sentencing because the sentence is excessive. We conclude that appellant's contention is without merit.

This court has consistently afforded the district court wide discretion in its sentencing decision.¹ Accordingly, we 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."² Moreover, a sentence within the statutory limits is not cruel and unusual punishment where the

¹See, e.g., Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

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

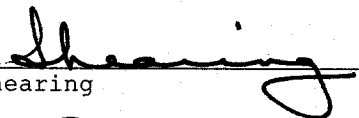
01-08998

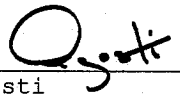
statute itself is constitutional, and the sentence is not so unreasonably disproportionate as to shock the conscience.³

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.⁴ Appellant also has not demonstrated that the sentence is so grossly disproportionate to the offense as to shock the conscience.

Having considered appellant's contention and concluded that it is without merit, we

ORDER the judgment of conviction AFFIRMED.


Shearing J.


Agosti J.


Rose J.

cc: Hon. James W. Hardesty, District Judge
Attorney General
Washoe County District Attorney
Jenny Hubach
Washoe County Clerk

³Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)).

⁴See NRS 453.337(2)(a) (providing that first offense possession of a controlled substance for the purpose of sale is a category D felony); NRS 193.130(2)(d) (providing that sentence for category D felony is 1 to 4 years in prison).