

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM BRUNS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 37145

**FILED**

MAR 05 2001

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Bloom*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of two counts of possession of a credit card without consent. The district court sentenced appellant to consecutive prison terms of 19 to 48 months for each count, and ordered appellant to pay restitution in the amount of \$15,121.83. The district court further ordered the sentence in this case to run consecutive to appellant's sentence in another case.

Appellant's sole contention is that the district court abused its discretion at sentencing by imposing consecutive rather than concurrent sentences. Citing the dissent in Tanksley,<sup>1</sup> appellant argues that this court should review the sentence imposed to determine whether justice was done. Appellant also argues that the district court abdicated its sentencing discretion by imposing the sentence recommended

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<sup>1</sup>Tanksley v. State, 113 Nev. 844, 944 P.2d 240 (1997)

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.<sup>2</sup> 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."<sup>3</sup> Moreover, "a sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional."<sup>4</sup>

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 statute.<sup>5</sup> Finally, we conclude that the fact that the court imposed the sentence recommended by the Division of Parole and Probation does not demonstrate that the court failed to exercise its sentencing discretion.

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<sup>2</sup>See *Houk v. State*, 103 Nev. 659, 747 P.2d 1376 (1987).

<sup>3</sup>*Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

<sup>4</sup>*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)).

<sup>5</sup>See NRS 205.690(2); NRS 193.130(2) (d).

Having considered appellant's contentions and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.

Young J.  
Young

Rose J.  
Rose

Becker J.  
Becker

cc: Hon. Steven P. Elliott, District Judge  
Attorney General  
Washoe County District Attorney  
Washoe County Public Defender  
Washoe County Clerk