

IN THE SUPREME COURT OF THE STATE OF NEVADA

JONATHAN DAVID HUNTLEY,

No. 37155

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

APR 06 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY: *J. R. [Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of battery with the use of a deadly weapon causing substantial bodily harm. The district court sentenced appellant to a prison term of 60 to 156 months, and ordered appellant to pay \$15,285.01 in restitution.

Appellant contends that the district court abused its discretion at sentencing because the sentence is too harsh. We conclude that this contention is without merit.

This court has consistently afforded the district court wide discretion in its sentencing decision.¹ 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."² Moreover, "a sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional."³

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.⁴

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

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

³*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)).

⁴See NRS 200.481(2)(e)(2).

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Appellant also argues that he did not receive notice of the scope and extent of the victim's testimony, in violation of this court's decision in *Buschauer v. State*.⁵ However, this court held in *Buschauer* that where the victim's testimony refers only to the facts of the crime, the impact on the victim, and the need for restitution, the victim must be sworn, but cross-examination and prior notice are normally not required.⁶ In the instant case, the victim's testimony was limited to those areas set forth in *Buschauer*, and we conclude that prior notice was therefore not required.

Having considered appellant's contentions and concluded that they are without merit, we

ORDER the judgment of conviction AFFIRMED.

Young, J.

Leavitt, J.

Becker, J.

cc: Hon. Janet J. Berry, District Judge
Attorney General
Washoe County District Attorney
Jack A. Alian
Washoe County Clerk

⁵106 Nev. 890, 804 P.2d 1046 (1990).

⁶*Id.* at 893-94, 804 P.2d at 1048.