IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIS MIGUEL GOMEZ-MARTINEZ A/K/A
MIGUEL MARTINEZ-GOMEZ,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 37288

FILED

APR 30 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 plea of nolo contendere, of one count of attempted sexual assault. The district court sentenced appellant to a prison term of 48 to 120 months.

Appellant's sole contention is that the district court abused its discretion at sentencing because the sentence is too harsh. We conclude that appellant's 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]

_____

[1]See 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)).

01-07187

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]

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

ORDER the judgment of conviction AFFIRMED.

_____, J.
Shearing

_____, J.
Agosti

_____, J.
Rose

cc: Hon. Steven R. Kosach, District Judge
    Attorney General
    Washoe County District Attorney
    Washoe County Public Defender
    Washoe County Clerk

---

[4]See NRS 200.366(2)(b); NRS 193.330(1)(a)(1).