

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARCELO PARTIDA,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 37370

FILED

MAY 08 2001

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of attempted murder with the use of a deadly weapon, and one count of battery with the use of a deadly weapon. The district court sentenced appellant to a prison term of 72 to 240 months for attempted murder, with an equal and consecutive term of imprisonment for the use of a deadly weapon, and a prison term of 32 to 120 months for battery.

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

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).

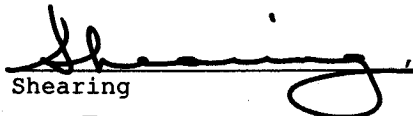
01-07706

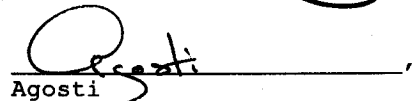
is constitutional, and the sentence is not so unreasonably disproportionate as to shock the conscience.³

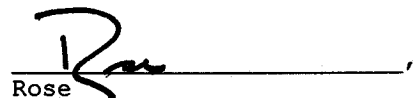
In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statutes.⁴

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

ORDER the judgment of conviction AFFIRMED.


Shearing J.


Agosti J.


Rose J.

cc: Hon. James W. Hardesty, District Judge
Attorney General
Washoe County District Attorney
Gamboa & Stovall
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 200.030; NRS 193.330(1)(a)(1); NRS 193.165; NRS 200.481(2)(e).