

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRYAN KEITH WADE,

No. 37896

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

JUL 18 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 one count of domestic battery. The district court sentenced appellant to a prison term of 24 to 60 months.

Appellant's sole contention is that the district court abused its discretion at sentencing because the sentence is too harsh. Appellant further argues that the district court abdicated its sentencing discretion by imposing the sentence recommended by the Division of Parole and Probation. 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).


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

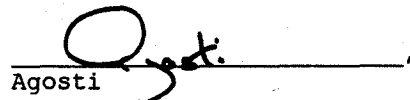
is constitutional, and the sentence is not so unreasonably disproportionate as to shock the conscience.³

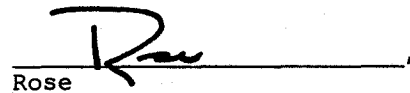
In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statute.⁴ Finally, we conclude that the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

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. Jerome M. Polaha, District Judge
Attorney General
Washoe County District Attorney
Washoe County Public Defender
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 200.485(1)(c); NRS 193.130(2)(c).