

IN THE SUPREME COURT OF THE STATE OF NEVADA

JEFFREY ROBINSON,

No. 37963

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

**FILED**

**AUG 08 2001**

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of two counts of driving under the influence of alcohol or a controlled substance, causing death to another person. The district court sentenced appellant to serve two consecutive prison terms of 60 to 240 months.

Appellant's sole contention is that the district court abused its discretion in sentencing by failing to give "due regard" to the sentencing recommendation made by the district attorney's office pursuant to the plea agreement and in failing to consider mitigating factors. We disagree.

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

<sup>1</sup>See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

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

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

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.<sup>4</sup> Finally, the record reveals that, in sentencing appellant, the district court considered the witness testimony, the information contained in the presentence investigation report, the circumstances of the offense, and the arguments of counsel.

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

ORDER the judgment of conviction AFFIRMED.

Young J.  
Young

Leavitt J.  
Leavitt

Becker J.  
Becker

cc: Hon. David A. Huff, District Judge  
Attorney General  
Lyon County District Attorney  
Ohlson & Springgate  
Lyon County Clerk

<sup>3</sup>Blume 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)).

<sup>4</sup>See NRS 484.3795(1)(f) (providing for a prison sentence of two to twenty years).