IN THE SUPREME COURT OF THE STATE OF NEVADA

BRETT RUSSELL MCKEEHAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 38158

FILED
MAY 03 2002
JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY [signature]
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count each of burglary, first-degree kidnapping, robbery with the use of a deadly weapon, first-degree arson, and attempted robbery with the use of a deadly weapon. The district court sentenced appellant: for burglary, to a prison term of 38 to 96 months; for kidnapping, to a prison term of life with parole eligibility after 5 years; for robbery, to a prison term of 72 to 180 months, with an equal and consecutive term for the use of a deadly weapon; for arson, to a prison term of 62 to 156 months; and for attempted robbery, to a prison term of 38 to 96 months with an equal and consecutive term for the use of a deadly weapon. The district court ordered the sentence for robbery to run consecutively to the sentence for kidnapping, and ordered all others sentences to run concurrently.

Appellant's sole contention on appeal is that the district court abused its discretion by sentencing appellant to a consecutive term for robbery rather than a concurrent sentence. Specifically, appellant argues that the robbery and kidnapping were part of a "crime spree" and the

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sentences should therefore be concurrent.[1] We conclude that appellant's contention is without merit.

This court has consistently afforded the district court wide discretion in its sentencing decision.[2] 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."[3] Moreover, a sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional, and the sentence is not so unreasonably disproportionate as to shock the conscience.[4]

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 sentences imposed are within the parameters provided by the relevant statutes.[5]

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[1]In support of his contention, appellant cites Fraley v. Florida, 641 So. 2d 128, 129-30 (1994).

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

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

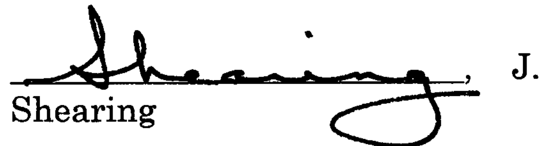
[4]Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)).

[5]See NRS 205.060; NRS 200.310(1); NRS 193.130(2)(a); NRS 200.380; NRS 193.165; NRS 205.010; NRS 193.330(1)(a)(2).

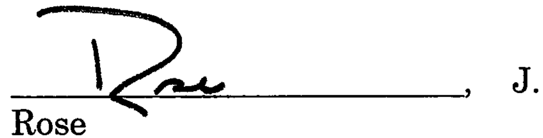
Moreover, it is within the district court's discretion to impose consecutive sentences.[6]

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

ORDER the judgment of conviction AFFIRMED.



Shearing, J.



Rose, J.

Becker, J.

cc: Hon. J. Michael Memeo, District Judge
Elko County Public Defender
Attorney General/Carson City
Elko County District Attorney
Elko County Clerk

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[6] See NRS 176.035(1); Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967).