

IN THE SUPREME COURT OF THE STATE OF NEVADA

RANDOLPH KIMPTON,

No. 38281

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

NOV 05 2001

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of felony driving under the influence in violation of NRS 484.379 and NRS 484.3792(1)(c). The district court sentenced appellant to serve 18 to 48 months in prison, to be served consecutively to the sentence in district court case CR98-2535.

Appellant contends that the district court abused its discretion by ordering that the sentence be served consecutively to the sentence in district court case CR98-2535, another case wherein appellant was convicted of felony driving under the influence. Appellant argues that consecutive sentences are inappropriate because he has acknowledged his drinking problem and wants to begin a treatment program as soon as possible. Citing the dissent in Tanksley v. State,¹ appellant asks this court to review the sentence to see that justice has been served. We conclude that appellant's contention lacks merit.

This court has consistently afforded the district court wide discretion in its sentencing decision.² Accordingly, we 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

¹113 Nev. 844, 944 P.2d 240 (1997).

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


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

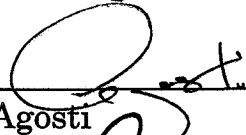
not cruel and unusual punishment where the statute itself is constitutional, and the sentence is not so unreasonably disproportionate as to shock the conscience.⁴


In this 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 statute⁵ and that the district court had discretion to impose the sentence concurrently with or consecutively to the sentence in the other case.⁶ We conclude that appellant has not demonstrated that the district court abused its discretion in imposing consecutive sentences.

Having considered appellant's contention and concluded that it lacks merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Young


_____, J.
Agosti


_____, J.
Leavitt

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

⁴Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996).

⁵See NRS 484.3792(1)(c) (providing for sentence of 1 to 6 years).

⁶See NRS 176.035(1).