

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARIO MICALIZZI,

No. 38291

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

SEP 28 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 two counts of burglary. The district court sentenced appellant to two consecutive prison terms of 48 to 120 months. The district court further ordered appellant to pay restitution in the amount of \$9,956.21.

Appellant's sole contention is that the district court abused its discretion by sentencing appellant to consecutive rather than concurrent sentences. 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 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

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).

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)).

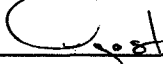
statute is unconstitutional. Further, we note that the sentence imposed is within the parameters provided by the relevant statute.⁴ Moreover, it is within the district court's discretion to impose consecutive sentences.⁵

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


ORDER the judgment of conviction AFFIRMED.



Young J.



Agosti J.



Leavitt J.

cc: Hon. James W. Hardesty, District Judge
Attorney General
Washoe County District Attorney
Paul C. Giese
Washoe County Clerk

⁴See NRS 205.060(2).

⁵See NRS 176.035(1); Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967).