

IN THE SUPREME COURT OF THE STATE OF NEVADA

MANUEL A. COLEMAN,

No. 38405

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

NOV 15 2001

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of possession of a controlled substance for the purpose of sale. The district court sentenced appellant Manuel A. Coleman to serve a prison term of 15 to 48 months.

Coleman contends that the district court abused its discretion at sentencing because his sentence is too harsh. Specifically, Coleman contends that the district court should have either sentenced him to probation, or to serve a prison term of 12 to 48 months, which was the sentence imposed upon his wife, a codefendant in the crime. Because Coleman alleges that he "had actually gotten farther along in behavior that was deserving of probation [i.e. drug treatment] than his wife," the district court abused its discretion in sentencing him to a prison term longer than his wife's. We conclude that Coleman'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,

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).

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


In the instant case, Coleman 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 sentence imposed was within the parameters provided by the relevant statutes.⁴ Finally, we note that "a mere disparity of sentences among codefendants does not, alone, constitute abuse of discretion."⁵ Accordingly, we conclude that the district court did not abuse its discretion at sentencing.

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

ORDER the judgment of conviction AFFIRMED.


_____, J.
Young


_____, J.
Agosti


_____, J.
Leavitt

cc: Hon. Jerome 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 453.337; NRS 193.130.

⁵U.S. v. Boyd, 885 F.2d 246, 248 (5th Cir. 1989) (quoting United States v. Castillo-Roman, 774 F.2d 1280, 1283-84 (5th Cir. 1985)).