

IN THE SUPREME COURT OF THE STATE OF NEVADA

DESTIN JOVAN WASHINGTON,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 38568

FILED

DEC 04 2001

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of unlawful taking of a motor vehicle. The district court sentenced appellant to serve a jail term of 12 months.

Washington's sole contention is that the district court abused its discretion by refusing to grant probation. Specifically, Washington contends that because he had employment in the music industry and had made plans to continue his education, he should have been granted probation despite his "difficulty in . . . life with choosing law abiding behavior over illegal activity." 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

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)).


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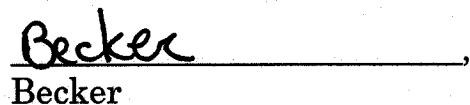
In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. Further, we note that the sentence imposed is within the parameters provided by the relevant statutes.⁴ Moreover, the granting of probation is discretionary.⁵

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

ORDER the judgment of conviction AFFIRMED.

 J.
Shearing

 J.
Rose

 J.
Becker

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

⁴See NRS 205.2715(1) (providing that the crime of unlawful taking of a vehicle is a gross misdemeanor); NRS 193.140 (providing for a jail term of not more than one year).

⁵See NRS 176A.100(1)(c).