

IN THE SUPREME COURT OF THE STATE OF NEVADA

LESLIE MARIA MIKESELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 38642

FILED

MAY 03 2002

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of uttering a forged instrument. The district court sentenced appellant to a prison term of 12 to 34 months. The district court also ordered appellant to pay restitution in the amount of \$372.74.

Appellant's sole contention is that the district court abused its discretion at sentencing by refusing to place appellant in a treatment program. 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,

¹See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

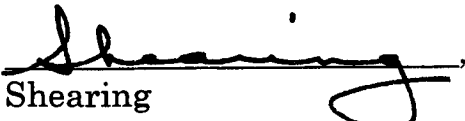
²Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

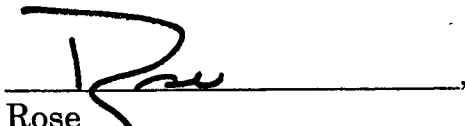
and the sentence is not so unreasonably disproportionate as to shock the conscience.³

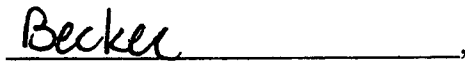
In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional, and we note that the sentence imposed was within the parameters provided by the relevant statutes.⁴ Moreover, placement in treatment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

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.

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 205.110; NRS 205.090; NRS 193.130(2)(d).

⁵See NRS 458.320(1) – (3).

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