

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES DEAN MARTIN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 38682

FILED

APR 10 2002

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 robbery (count I), grand larceny of a motor vehicle (count II), and eluding a police officer (count III). The district court sentenced appellant James Dean Martin to prison terms of: 20 to 80 months for count I; 12 to 32 months for count II, to run consecutively to count I; and 12 to 36 months for count III, to run concurrently with count II.

Martin's sole contention on appeal is that the district court abused its discretion by sentencing him well beyond the minimum prison terms for the crimes committed and to consecutive rather than concurrent sentences. We conclude that Martin's contention is without merit.

This court has consistently afforded the district court wide discretion in its sentencing decision.<sup>1</sup> 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."<sup>2</sup> Moreover, a sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional,

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

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

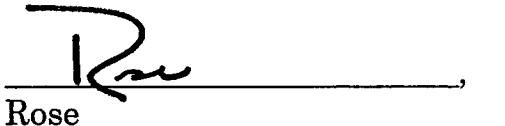
and the sentence is not so unreasonably disproportionate as to shock the conscience.<sup>3</sup>


In the instant case, Martin 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.<sup>4</sup> Moreover, it is within the district court's discretion to impose consecutive sentences.<sup>5</sup>

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

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Shearing

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Becker

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<sup>3</sup>Blume 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)).

<sup>4</sup>See NRS 200.380(2), 205.228(2), 193.130(2)(c), 484.348(3)(b). We note that Martin's sentence for robbery actually falls below the statutory minimum of 24 months as set forth in NRS 200.380(2).

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

cc: Hon. Steven P. Elliott, District Judge  
Robert C. Bell  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk