

IN THE SUPREME COURT OF THE STATE OF NEVADA

DARRYL WILLIAMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39177

FILED

MAY 09 2002

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of robbery with the use of a firearm. The district court sentenced appellant Darryl Williams to serve two consecutive prison terms of 72 to 180 months to run consecutively to any other sentence imposed in any other case.

Williams contends that the district court abused its discretion at sentencing because the sentence is too harsh. In particular, Williams contends that he should have received concurrent sentences in all of his cases and did not deserve the maximum sentence for the crimes. Although Williams concedes that he has eleven prior felony convictions, he argues that the district court abused its discretion in imposing the maximum sentence because it failed to consider that Williams' prior convictions were actually the result of only three state criminal cases from 1987 to 1991, and one concurrent federal case. 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

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

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, Williams does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional.⁴ Further, the record of the sentencing hearing reveals that the district court considered the fact that Williams' prior convictions, while numerous, occurred mostly in 1991. In fact, at allocution, Williams informed the court:

I know I have an extensive record of felonies in which I have been convicted for and I have done my time for them and they was all at the same time, all the charges that I have was at the same time, all in basically, in 1991. The other charges [occurred] when I was a juvenile.

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)).

⁴We recognize that the prosecutor misinformed the district court that Williams had several misdemeanor convictions. However, Williams does not allege, and the record does not reveal, that the district court relied on this misinformation in sentencing Williams. The district court likely based its sentencing decision on the fact that Williams had 11 prior felony convictions, many of which involved violence.

Moreover, we note that the sentence imposed was within the parameters provided by the relevant statutes.⁵ Finally, it is within the district court's discretion to impose consecutive sentences.⁶

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

ORDER the judgment of conviction AFFIRMED.

Young, J.
Young

Agosti, J.
Agosti

Leavitt, J.
Leavitt

cc: Hon. Brent T. Adams, District Judge
Attorney General/Carson City
Washoe County District Attorney
Washoe County Public Defender
Washoe District Court Clerk

⁵See NRS 200.380(2); NRS 193.165(1); NRS 193.130(b).

⁶See NRS 176.035(1); Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967).