

IN THE SUPREME COURT OF THE STATE OF NEVADA

DASHAWN DEWITT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39281

FILED

JUL 26 2002

ORDER OF AFFIRMANCE

JANETTE 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 attempted grand larceny. The district court sentenced appellant Dashawn Dewitt to serve a prison term of 12-36 months, and gave him credit for 31 days time served.

Citing to the dissent in Tanksley v. State¹ for support, Dewitt's sole contention is that this court should review the sentence imposed by the district court to determine whether justice was done. Dewitt argues that the district court failed to exercise its sentencing discretion and simply followed the recommendation of the Division of Parole and Probation. Dewitt further argues that his sentence should be reversed and remanded based on the following unique facts of this case: (1) he confessed to the crime; and (2) he was candid and cooperative with the State. We conclude that Dewitt's contention is without merit.

This court has consistently afforded the district court wide discretion in its sentencing decision.² This court will refrain from interfering with the sentence imposed "[s]o long as the record does not

¹113 Nev. 844, 852, 944 P.2d 240, 245 (1997) (Rose, J., dissenting).

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

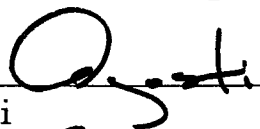
demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence."³ Moreover, a sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional, and the sentence is not so unreasonably disproportionate as to shock the conscience.⁴

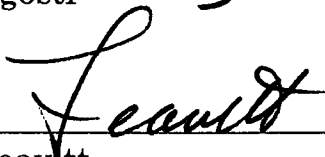
In the instant case, Dewitt does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statutes.⁵

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

ORDER the judgment of conviction AFFIRMED.


_____, J.
Young


_____, J.
Agosti


_____, J.
Leavitt

³Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

⁴Blume 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)).

⁵See NRS 193.330; NRS 205.220.

cc: Hon. Steven P. Elliott, District Judge
M. Jerome Wright
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk