

IN THE SUPREME COURT OF THE STATE OF NEVADA

DENNIS MEADOWS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39823

FILED

OCT 29 2002

ORDER OF AFFIRMANCE

JANETTE M. BLOCH
CLERK OF SUPREME COURT
IN *J. Richards*
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of burglary. The district court adjudicated appellant Dennis Meadows as an habitual offender according to NRS 207.010(1)(a). Meadows was sentenced to serve a term of eight to twenty years in the Nevada State Prison. This appeal followed.

Meadows contends that the district court failed to exercise its discretion at sentencing in regard to his habitual offender adjudication. Specifically, Meadows claims that the district court abdicated its authority by imposing the sentence the State requested. He also contends that he entered into an improper stipulation in his guilty plea because, according to this court's holding in Staley v. State case, a defendant cannot simply stipulate to habitual criminal status.¹

We conclude that no error occurred in this regard. The record reveals that the district court was well aware it need not follow the State's recommended sentence, and the court commented to that effect at Meadows's arraignment. Further, we conclude that the guilty plea agreement in this case did not run afoul of Staley. The holding in Staley

¹Staley v. State, 106 Nev. 75, 787 P.2d 396 (1990); see also Clark v. State, 109 Nev. 426, 428-29, 851 P.2d 426, 427-28 (1993) (decision to adjudicate defendant as habitual offender is not an automatic one).

protects defendants against the danger of insufficient proof of the prior convictions required for habitual criminal status. Because the district court conducted an independent review at sentencing of the proof of Meadows's prior convictions, we conclude that the habitual criminal adjudication was not automatic and that the district court properly exercised its discretion.² Thus, we conclude that Meadows's contention lacks merit.

Meadows also contends that the sentence he received as an habitual offender is so disproportionately harsh compared to the crime of burglary as to shock the conscience.³ We disagree.

This court has consistently afforded the district court wide discretion in its sentencing decision.⁴ 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

²See Hughes v. State, 116 Nev. 327, 332-33, 996 P.2d 890, 893-94 (2000) (district court exercised sufficient discretion in habitual criminal determination based on the record as a whole); see also Clark, 109 Nev. at 428-29, 851 P.2d at 427-28.

³Meadows relies primarily on Solem v. Helm, 463 U.S. 277 (1983) and Schmidt v. State, 94 Nev. 665, 584 P.2d 695 (1978). Meadows also invites this court to review his sentence as discussed in Tanksley v. State, 113 Nev. 844, 850, 944 P.2d 240, 244 (1997) (Rose, J., dissenting). We decline to do so.

⁴See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

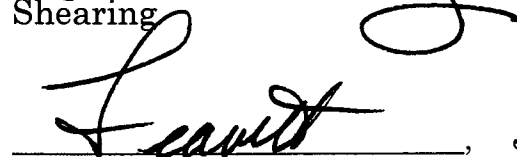
suspect evidence.”⁵ Moreover, a sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional.⁶

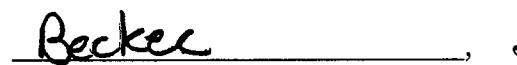
In this case, Meadows does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statutes.⁷ We also note that the habitual criminal enhancement is deliberately punitive, intended to discourage criminals who habitually offend society’s laws.⁸ Therefore, we conclude that Meadows’s sentence does not shock the conscience.

Having considered Meadows’s claims and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Shearing


_____, J.
Leavitt


_____, J.
Becker

⁵Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

⁶Blume 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)).

⁷See NRS 205.060(1), NRS 207.010(1)(a).

⁸See Sims v. State, 107 Nev. 438, 440, 814 P.2d 63, 64 (1991).

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