

IN THE SUPREME COURT OF THE STATE OF NEVADA

NATHANIEL STEWART JOURDAN  
A/K/A NATHANIEL STEWARD  
JOURDAN, III,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 39926

FILED

OCT 16 2002

ORDER OF AFFIRMANCE

JANET L. 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 trafficking in a controlled substance, a category B felony in violation of NRS 453.3385(1). The district court sentenced appellant Nathaniel Stewart Jourdan to serve a prison term of 12-30 months.

Citing to the dissent in Tanksley v. State<sup>1</sup> for support, Jourdan's sole contention is that this court should review the sentence imposed by the district court to determine whether justice was done. Jourdan argues that, notwithstanding his guilty plea, he was only guilty of "simple possession" of a controlled substance rather than possession of a trafficking amount. Jourdan concedes that he did not raise this argument in the district court. Therefore, we conclude that Jourdan has not

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<sup>1</sup>113 Nev. 844, 852, 944 P.2d 240, 245 (1997) (Rose, J., dissenting).

preserved this issue for appeal.<sup>2</sup> Nevertheless, our review of Jourdan's contention reveals that it is without merit.<sup>3</sup>

This court: (1) has consistently afforded the district court wide discretion in its sentencing decision,<sup>4</sup> and (2) 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>5</sup> Moreover, a sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional,

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<sup>2</sup>This court has held that "[a]s a general rule, failure to object below bars appellate review." Emmons v. State, 107 Nev. 53, 60-61, 807 P.2d 718, 723, (1991). See also Webb v. State, 91 Nev. 469, 538 P.2d 164 (1975) (holding that entry of a guilty plea waives any right to appeal regarding events occurring prior to the entry of the plea).

<sup>3</sup>We also note, to the extent that Jourdan is challenging the validity of his guilty plea in his direct appeal, that we have held that such challenges must be raised in the district court in the first instance by either filing a motion to withdraw the guilty plea or commencing a post-conviction proceeding pursuant to NRS chapter 34. See Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986). Because Jourdan has not challenged the validity of his guilty plea in the district court, this claim is not appropriate for review on direct appeal from the judgment of conviction. See id.

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


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


and the sentence imposed is not so unreasonably disproportionate as to shock the conscience.<sup>6</sup>

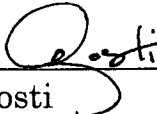
In the instant case, Jourdan does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statute.<sup>7</sup>

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

ORDER the judgment of conviction AFFIRMED.

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

  
\_\_\_\_\_, J.  
Young

  
\_\_\_\_\_, J.  
Agosti

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<sup>6</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>7</sup>See NRS 453.3385(1).

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