IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER WHITTON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 40064

FILED

DEC 04 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one felony count of possession of stolen property. The district court sentenced appellant Christopher Whitton to serve a prison term of 12-48 months, to be served consecutively to the sentence imposed in district court case no. CR01-1593; he was given credit for 126 days time served.

Whitton's sole contention is that the district court abused its discretion at sentencing. Citing to the dissent in Tanksley v. State[1] for support, Whitton argues that this court should review the sentence imposed by the district court to determine whether justice was done. We disagree.

This court has consistently afforded the district court wide discretion in its sentencing decision,[2] and will refrain from interfering

[1]113 Nev. 844, 852, 944 P.2d 240, 245 (1997) (Rose, J., dissenting).

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



02-20729

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."[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, Whitton cannot demonstrate that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. The sentence imposed was within the parameters provided by the relevant statutes.[5] We further note that the plea negotiations were entirely favorable to Whitton - based on his offense, he could have received a much longer prison term and a substantial monetary fine.[6] Accordingly, we conclude that the sentence imposed is not too harsh, is not disproportionate to the crime, does not constitute cruel and unusual punishment, and that the district court did not abuse its discretion at sentencing.

---

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

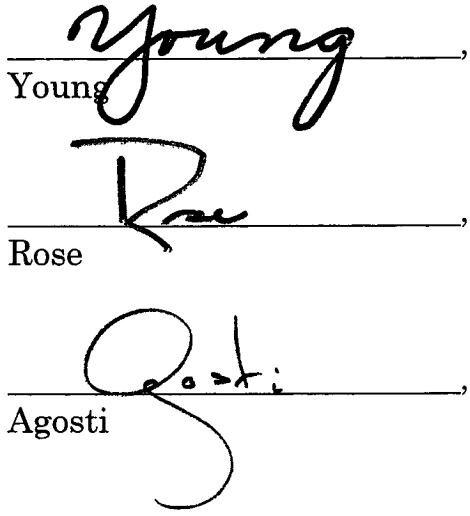
[4]Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)).

[5]See NRS 205.275(2)(b); NRS 193.130(2)(c).

[6]The stolen property in question was a firearm, and as a result, Whitton could have been sentenced as having committed a class B felony.

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

ORDER the judgment of conviction AFFIRMED.[7]



_____, C.J.
Young

_____, J.
Rose

_____, J.
Agosti

cc: Hon. Connie J. Steinheimer, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

---

[7]Although this court has elected to file the joint appendix submitted, it is noted that it does not comply with the arrangement and form requirements of the Nevada Rules of Appellate Procedure. See NRAP 3C(e)(2); NRAP 30(c); NRAP 32(a). Specifically, in violation of NRAP 30(c)(2), the appendix is not prefaced by an alphabetical index identifying each document contained within. Counsel for the parties are cautioned that failure to comply with the requirements for appendices in the future may result in the appendix being returned, unfiled, to be correctly prepared. See NRAP 32(c). Failure to comply may also result in the imposition of sanctions by this court. NRAP 3C(n).