IN THE SUPREME COURT OF THE STATE OF NEVADA

JASON B. WOODRUFF,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 40242

FILED

DEC 10 2002

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of grand larceny of a motor vehicle. The district court sentenced appellant Jason B. Woodruff to serve a prison term of 16 to 72 months, then suspended execution of the sentence, and placed Woodruff on probation for a period not to exceed 3 years. As a condition of probation, the district court ordered Woodruff to serve a jail term of 1 year.

Woodruff contends that the district court abused its discretion at sentencing because the sentence is too harsh.[1] Additionally, Woodruff contends that the sentence was imposed to "impermissibly punish Mr. Woodruff because [in an unrelated case] the State of Washington released him after he served only 15 days of a 365 day sentence."[2]

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[1]We note that the sentence imposed was actually more lenient than the prison term of 16 to 72 months, which was recommended by the Division of Parole and Probation and requested by the State.

[2]In reviewing Woodruff's prior criminal history, the district court stated: "You know, they have a real interesting math in Washington. He got 365 days and he did 15."

This court has consistently afforded the district court wide discretion in its sentencing decision.[3] 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 suspect evidence."[4] 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.[5]

In the instant case, Woodruff does not allege that the relevant statutes are unconstitutional, and the sentence imposed was within the parameters of those statutes.[6] Moreover, after reviewing the transcript of the sentencing hearing, we conclude that the district court did not consider information or accusations founded on facts supported only by impalpable or highly suspect evidence. The relevant information about the jail time Woodruff served in Washington was taken from the presentence investigation report. Moreover, there is no indication that the jail term was imposed to punish Woodruff for prior uncharged crimes.[7] Rather, the district court explained that it was imposing a jail term, in

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

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

[5]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)).

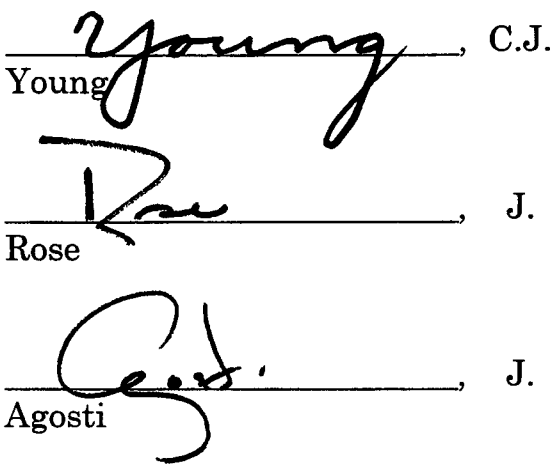
[6]See NRS 205.228(2); NRS 193.130(2)(c).

[7]Cf. Denson v. State, 112 Nev. 489, 915 P.2d 284 (1996).

part, so that Woodruff could "clean up" and participate in the programs available there, including the educational and parenting skill programs. Additionally, the district court considered the nature of the charged crime, namely, that Woodruff had gone on a "crime spree" by stealing a friend's car, after having previously committed a fourth-degree assault. Accordingly, we conclude that the district court did not abuse its discretion at sentencing.

Having considered Woodruff's contentions and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.



_____, C.J.
Young

_____, J.
Rose

_____, J.
Agosti

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