IN THE SUPREME COURT OF THE STATE OF NEVADA

BRIAN RAY MATHIESEN, Appellant, vs. THE STATE OF NEVADA, Respondent.	No. 40456
BRIAN RAY MATHIESEN, Appellant, vs. THE STATE OF NEVADA, Respondent.	No. 40457

ORDER OF AFFIRMANCE

These are consolidated appeals from judgments of conviction, pursuant to guilty pleas, of two counts of possession of stolen property and one count of burglary. The district court sentenced appellant Brian Ray Mathiesen to serve three consecutive prison terms of 48-120 months and ordered him to pay restitution in the amount of $1,711.27.

Mathiesen's sole contention is that the district court abused its discretion at sentencing. Citing to the dissent in Tanksley v. State[1] for support, Mathiesen argues that this court should review the sentence imposed by the district court to determine whether justice was done. Mathiesen argues that his "drug problems" would have been more appropriately addressed by the imposition of the minimum sentence rather than the maximum sentence. We disagree with Mathiesen's contention.

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

This court has consistently afforded the district court wide discretion in its sentencing decision[2] and 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."[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, Mathiesen does not allege 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 Mathiesen – he was initially charged with twelve felony counts of possession of stolen property, two counts of possession of a stolen motor vehicle, and one count each of possession of a controlled substance for the purpose of sale, possession of a controlled substance, and burglary. Accordingly, we conclude that the sentence imposed is not too harsh, is not disproportionate to the crime,

---

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

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

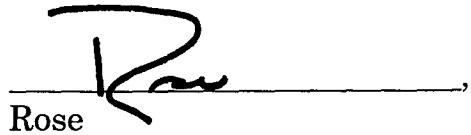
[4]Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)).

[5]See NRS 205.275(2)(c); NRS 205.060(1)-(2).

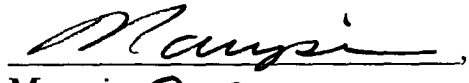
does not constitute cruel and unusual punishment, and that the district court did not abuse its discretion at sentencing.

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

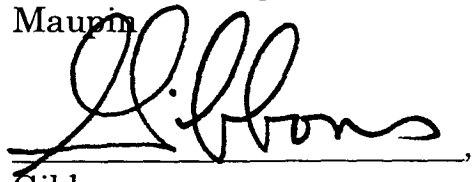
ORDER the judgments of conviction AFFIRMED.



_____, J.
Rose



_____, J.
Maupin



_____, J.
Gibbons

cc: Hon. James W. Hardesty, District Judge
Washoe County Public Defender
Attorney General
Washoe County District Attorney
Washoe District Court Clerk