

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHAUN MOORE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41273

FILED

JUL 9 2003

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
B. [Signature]
DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of two counts of burglary. The district court sentenced appellant Shaun Moore to serve two consecutive terms of thirty-six to one hundred and twenty months in the Nevada State Prison.

Citing the dissent in Tanksley v. State,¹ Moore argues that this court should review his sentences to determine whether, given the facts, consecutive sentences were appropriately imposed. Moore asserts that the record is silent as to the reason the district court imposed consecutive sentences. Moore further asserts that this court may remand the matter to the district court for an explanation of the reasoning behind the imposition of consecutive sentences or remand the matter for a new sentencing hearing before a different district court judge. We conclude that the district court did not abuse its discretion in imposing consecutive sentences, and appellant is not entitled to the relief requested.

¹113 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 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."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, Moore does not allege that the district court relied on impalpable or highly suspect evidence. The sentence imposed was within the parameters provided by the relevant statute.⁵ The decision of whether to impose concurrent or consecutive sentences is a discretionary act of the district court.⁶ Accordingly, the district court did not abuse its discretion at sentencing.

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

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

⁴Blume 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)).

⁵See NRS 205.060(2) (providing that a person convicted of burglary is guilty of a Category B felony and shall be punished by imprisonment for a minimum term of not less than one year and a maximum term of not more than ten years).


⁶See NRS 176.035(1).

Having considered Moore's contention and concluded that it lacks merit, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Shearing


_____, J.
Leavitt


_____, J.
Becker

cc: Hon. James W. Hardesty, District Judge
Washoe County Public Defender
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk