

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL JOSEPH GEIGER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41452

FILED

AUG 13 2003

ORDER OF AFFIRMANCE

JANETTE 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 possession of a stolen motor vehicle. The district court sentenced appellant Michael Joseph Geiger to serve a prison term of 14 to 120 months.

Geiger contends that the district court abused its discretion at sentencing by refusing to grant probation. Specifically, Geiger argues that he should have received probation given that he acknowledged his "terrible" criminal record, admitted responsibility for the offense to which he pleaded guilty, and sought a chance at a rehabilitation program.¹ Citing the dissent in Tanksley v. State,² Geiger asks this court to review the district court's sentence and remand "for a new sentencing hearing

¹Geiger's criminal history included 9 prior felony convictions. At sentencing, the prosecutor asked the district court to impose the maximum sentence, explaining that the criminal charges arose when only one day after Geiger completed serving a 10-year prison term for a prior habitual criminal adjudication, Geiger stole a vehicle from a pastor.

²113 Nev. 844, 852, 944 P.2d 240, 245 (1997) (Rose, J., dissenting).

before a different district court judge where probation . . . is a true possibility.” We conclude that the district court did not abuse its discretion in refusing to grant probation.

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, Geiger does not allege that the district court relied on impalpable or highly suspect evidence. Further, we note that the sentence imposed was within the parameters provided by the relevant statute.⁶ Moreover, the granting of probation is discretionary.⁷ Accordingly, the district court did not abuse its discretion at sentencing.

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

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

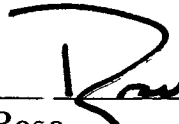
⁵Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)).

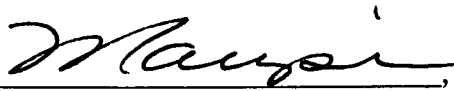
⁶See NRS 205.273(4) (providing for a prison term of 1 to 10 years).

⁷See NRS 176A.100(1)(c).

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

ORDER the judgment of conviction AFFIRMED.⁸


_____, J.
Rose


_____, J.
Maupin


_____, J.
Gibbons

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

⁸We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.