IN THE SUPREME COURT OF THE STATE OF NEVADA

ERIC JAMES TUTTLE, Appellant, vs. THE STATE OF NEVADA, Respondent.	No. 41697
ERIC JAMES TUTTLE, Appellant, vs. THE STATE OF NEVADA, Respondent.	No. 41698

FILED

DEC 23 2003

JANETTE M BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

These are consolidated appeals from judgments of conviction, pursuant to guilty pleas. In Docket No. 41697, appellant was convicted of one count of uttering a forged instrument. The district court sentenced appellant to a prison term of 12 to 48 months. In Docket No. 41698, appellant was convicted of one count of uttering a forged instrument. The district court sentenced appellant to a prison term of 12 to 48 months and ordered appellant to pay restitution in the amount of $1,325.60.

Appellant's sole contention is that the district court abused its discretion by refusing to grant probation. We conclude that appellant's contention is without merit.

This court has consistently afforded the district court wide discretion in its sentencing decision.[1] 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

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

accusations founded on facts supported only by impalpable or highly suspect evidence."[2] 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.[3]

In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. Further, we note that the sentence imposed is within the parameters provided by the relevant statutes.[4] Moreover, the granting of probation is discretionary.[5]

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

ORDER the judgments of conviction AFFIRMED.

_____, J.
Rose

_____, J.
Leavitt

_____, J.
Maupin

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

[3]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)).

[4]See NRS 205.090; NRS 205.110; NRS 193.130(2)(d).

[5]See NRS 176A.100(1)(c).

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