IN THE SUPREME COURT OF THE STATE OF NEVADA

WAKEEN R. DAWSON A/K/A WAKEEM R. DAWSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41721

FILED

APR 07 2004

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of conspiracy to violate the Uniform Controlled Substances Act. The district court sentenced appellant Wakeen R. Dawson to serve a prison term of 12 to 30 months.

Dawson first contends that reversal of his conviction is warranted because the cocaine evidence seized was the fruit of an unlawful search. Dawson neither filed a pretrial suppression motion in the district court raising this issue nor expressly preserved right to do so before entering his guilty plea.[1] Moreover, by pleading guilty, Dawson waived all errors occurring prior to the entry of his plea including the purported violation of his Fourth Amendment rights.[2] We therefore decline to consider Dawson's contention.

Dawson next contends that the district court abused its discretion at sentencing by refusing to grant probation. Specifically,

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[1]See NRS 174.035(3).

[2]See Tollett v. Henderson, 411 U.S. 258, 267 (1973); Webb v. State, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975).

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Dawson contends that he should have been allowed to receive treatment for his drug addiction pursuant to NRS 458.300. We conclude that the district court did not abuse its discretion at sentencing.

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, Dawson 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.[6] Moreover, the granting of probation is discretionary.[7] Finally, we note that there is no allegation, or indication in the record, that prior to sentencing Dawson

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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 453.401(1)(a); NRS 193.130(2)(c) (providing for a prison term of 1 to 5 years).

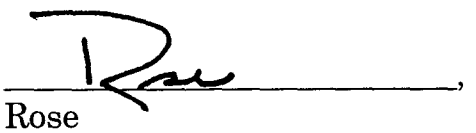
[7]See NRS 176A.100(1)(c).

requested a drug or alcohol evaluation or attempted to elect treatment for his drug or alcohol addiction pursuant to NRS 458.300.[8] Accordingly, the district court did not abuse its discretion at sentencing.

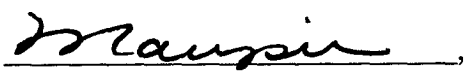
Having considered Dawson's contentions and concluded that they either have not been preserved for our review or are without merit, we

ORDER the judgment of the conviction AFFIRMED.

Shearing, C.J.



Rose, J.



Maupin, J.

cc: Hon. Sally L. Loehrer, District Judge
James L. Buchanan II
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

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[8]Cf. Brinkley v. State, 101 Nev. 676, 680-82, 708 P.2d 1026, 1029-30 (1985) (holding that the sentencing court abused its discretion when it denied a convicted defendant's request for a drug and alcohol evaluation pursuant to NRS 34.800).