

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY DEWAYNE HENRY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41947

FILED

MAR 01 2004

ORDER OF AFFIRMANCE

ANDREW M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of robbery with the use of a firearm, one count of conspiracy to commit robbery, and one count of being an ex-felon in possession of a firearm. The district court sentenced appellant: for robbery, to a prison term of 48 to 120 months, with an equal and consecutive term for the use of a firearm; for conspiracy, to a prison term of 12 to 60 months, to run consecutively to the sentence for robbery; and for being an ex-felon in possession of a firearm, to a prison term of 12 to sixty months, to run consecutively to the sentence for robbery, and concurrently with the sentence for conspiracy.

Appellant's sole contention on appeal is that the district court abused its discretion by sentencing appellant to consecutive rather than concurrent sentences. 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 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, it is within the district court's discretion to impose consecutive sentences.⁵

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

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

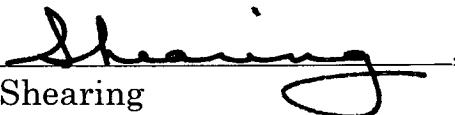
³Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)).

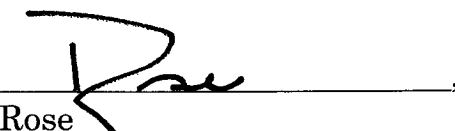
⁴See NRS 200.380(2); NRS 193.165(1); NRS 199.480(1)(a); NRS 202.360(3).


⁵See NRS 176.035(1); Warden v. Peters, 83 Nev. 298, 429 P.2d 549 (1967).

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

ORDER the judgment of conviction AFFIRMED.

 C.J.
Shearing

 J.
Rose

 J.
Maupin

cc: Hon. Steven P. Elliott, District Judge
Anthony Dewayne Henry
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk