

IN THE SUPREME COURT OF THE STATE OF NEVADA

JENNIFER IRENE MCELROY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 42068

**FILED**

FEB 10 2004

ORDER OF AFFIRMANCE

JANETTE M. BLOOM,  
CLERK OF SUPREME COURT  
BY *J. R. [Signature]*  
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of aiding and abetting an escape from confinement. The district court sentenced appellant to a prison term of 36 to 90 months. The district court further ordered appellant to pay restitution in the amount of \$3,260.60.

Appellant's sole contention is that the district court abused its discretion at sentencing because the sentence is too harsh. We conclude that appellant's contention is without merit.

This court has consistently afforded the district court wide discretion in its sentencing decision.<sup>1</sup> 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."<sup>2</sup> Moreover, a sentence within the statutory limits is not cruel and unusual punishment where the statute itself is constitutional,

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

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

and the sentence is not so unreasonably disproportionate as to shock the conscience.<sup>3</sup>

In the instant case, appellant does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statute is unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statute.<sup>4</sup>

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

ORDER the judgment of conviction AFFIRMED.<sup>5</sup>

Becker, J.  
Becker

Agosti, J.  
Agosti

Gibbons, J.  
Gibbons

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

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<sup>3</sup>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)).

<sup>4</sup>See NRS 212.090(1)(b); see also NRS 195.020.

<sup>5</sup>We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.