IN THE SUPREME COURT OF THE STATE OF NEVADA

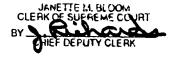
JOHN MICHAEL TERRY A/K/A JOHN MICHAEL MORRISON, Appellant,

vs.
THE STATE OF NEVADA,
Respondent.

No. 42464

FILED

MAY 1 0 2004



ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of burglary. The district court sentenced appellant to a prison term of 24 to 120 months.

Appellant's sole contention is that the district court abused its discretion at sentencing because the sentence is too harsh. Specifically, appellant argues that he was precluded from participating in the WINGS program because the district court imposed a maximum sentence of 120 months rather than the 60 months requested by defense counsel at sentencing. 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,

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

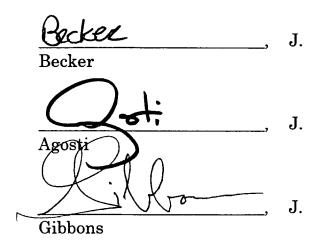
²Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

and the sentence is not so unreasonably disproportionate to the offense 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 statute is unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statute.⁴

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

ORDER the judgment of conviction AFFIRMED.



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

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

⁴See NRS 205.060(2).