IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL RAY GRANT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 42508

FILED

MAY 10 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 attempted sexual assault. The district court sentenced appellant Michael Ray Grant to serve a prison term of 96 to 240 months to run concurrently with the sentences imposed in two unrelated cases.

Grant contends that the district court abused its discretion because the sentence imposed is too harsh. Additionally, Grant contends that the district court erred at sentencing by failing to explain, on the record, its justification for the harsh sentence. Citing to the dissent in Tanksley v. State,[1] Grant asks this court to review the sentence to see that justice was done. We conclude that Grant's contention is without merit.

This court has consistently afforded the district court wide discretion in its sentencing decision and 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

[1]113 Nev. 844, 852, 944 P.2d 240, 245 (1997) (Rose, J., dissenting).

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founded on facts supported only by impalpable or highly suspect evidence."[2] Regardless of its severity, 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 to the crime as to shock the conscience.[3]

In the instant case, Grant does not allege that the district court relied on impalpable or highly suspect evidence or that the sentencing statutes are unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statutes.[4] Moreover, we do not presume that a district court abused its sentencing discretion merely because it failed to explain, on the record, its justification for imposing a particular sentence.[5] Finally, the sentence imposed is not so unreasonably disproportionate to the crime as to shock the conscience. Accordingly, we conclude that the district court did not abuse its discretion at sentencing.

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[2]Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976); Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

[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 200.366(2); NRS 193.330(1)(a)(1) (providing for a prison term of 2 to 20 years).

[5]See generally Jones v. State, 107 Nev. 632, 636, 817 P.2d 1179, 1181 (1991) (stating that "trial judges are presumed to know the law and to apply it in making their decisions").

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

ORDER the judgment of conviction AFFIRMED.

Becker, J.
Becker

Agosti, J.
Agosti

Gibbons, J.
Gibbons

cc: Hon. Steven R. Kosach, District Judge
Washoe County Public Defender
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk