

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL ALEXANDER KORTE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50442

FILED

APR 25 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of attempted robbery. Second Judicial District Court, Washoe County; Deborah A. Agosti, Judge. The district court sentenced appellant Michael Korte to serve a prison term of 36 to 120 months.

Korte contends that the district court abused its discretion at sentencing and the sentence was excessive. Specifically, citing to the dissent in Tanksley v. State,¹ Korte contends that the district court failed to consider his mental health issues, the severity of his drug addiction, and his need for treatment.

This court has consistently afforded the district court wide discretion in its sentencing decision.² 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

¹Tanksley v. State, 113 Nev. 844, 850, 944 P.2d 240, 244 (1997) (Rose, J., dissenting).

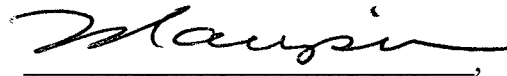
²See Houk v. State, 103 Nev. 659, 747 P.2d 1376 (1987).

suspect evidence.”³ Moreover, regardless of its severity, “[a] sentence within the statutory limits is not ‘cruel and unusual punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience.’”⁴

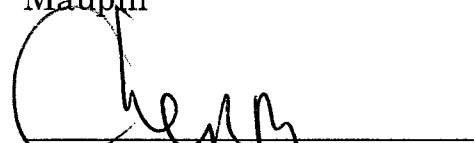
In the instant case, Korte does not allege that the district court relied on impalpable or highly suspect evidence or that the relevant statutes are unconstitutional. Further, we note that the sentence imposed was within the parameters provided by the relevant statutes.⁵ Therefore, we conclude that the district court did not abuse its discretion at sentencing.

Having considered Korte’s contention and concluded it is without merit, we

ORDER the judgment of conviction AFFIRMED.

 J.

Maupin

 J.

Cherry

 J.

Saitta

³Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

⁴Blume 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)); see also Glegola v. State, 110 Nev. 344, 348, 871 P.2d 950, 953 (1994).

⁵See NRS 200.380(2); NRS 193.330(1)(a)(2).

cc: Chief Judge, Second Judicial District
Hon. Deborah A. Agosti, Senior Justice
Washoe County Public Defender
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk