

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID BERUBE,

No. 38167

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

SEP 28 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of unlawful manufacture and/or possession of a majority of the ingredients to manufacture a controlled substance. The district court sentenced appellant to a prison term of 36 to 90 months, to run consecutively to the sentence imposed in another district court case.

Appellant's sole contention is that the district court abused its discretion by sentencing appellant to a consecutive rather than a concurrent sentence. 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

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

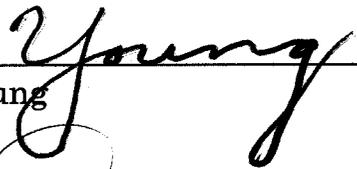
²Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).

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)).

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 is within the parameters provided by the relevant statute.⁴ Moreover, it is within the district court's discretion to impose consecutive sentences.⁵

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

ORDER the judgment of the district court AFFIRMED.


_____, J.
Young


_____, J.
Agosti


_____, J.
Leavitt

cc: Hon. Steven P. Elliott, District Judge
Attorney General
Washoe County District Attorney
Robert C. Bell
Washoe County Clerk

⁴See NRS 453.322(2).

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