

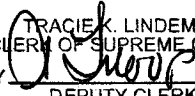
IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY J. GANDARA A/K/A
ANTHONY JAMES GANDARA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56764

FILED

MAR 17 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE


This an appeal from a judgment of conviction entered pursuant to a guilty plea of one count of burglary. Eighth Judicial District Court, Clark County; David B. Barker, Judge.

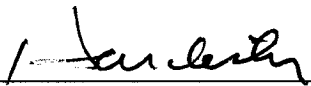
Appellant Anthony Gandara contends that his 10- to 25-year prison sentence is disproportionate to the gravity of his “nonviolent” crime and prior criminal convictions and constitutes cruel and unusual punishment. We review a district court’s sentencing determination for abuse of discretion. Randell v. State, 109 Nev. 5, 8, 846 P.2d 278, 280 (1993). Because Gandara does not argue that the habitual criminal punishment statute is unconstitutional, his sentence is within the parameters of that statute, and we are not convinced that the sentence is so grossly disproportionate to the gravity of the offense and Gandara’s long history of recidivism as to shock the conscience, we conclude that the sentence does not violate the constitutional proscriptions against cruel and unusual punishment. See NRS 207.010(1)(b)(3); Ewing v. California, 538 U.S. 11, 29 (2003) (plurality opinion); Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion); Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996); Glegola v. State, 110 Nev. 344, 348, 871 P.2d 950,

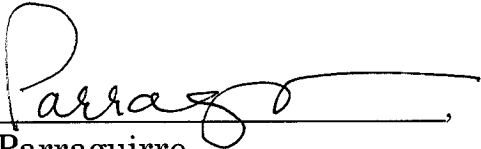
953 (1994); see also Arajakis v. State, 108 Nev. 976, 983, 843 P.2d 800, 805 (1992) (“NRS 207.010 makes no special allowance for non-violent crimes.”).

Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. David B. Barker, District Judge
Cannon & Tannery
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk