

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANK AMICHIA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57690

FILED

JUL 14 2011

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


ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of possession of personal identifying information to establish a false status or identity. Eighth Judicial District Court, Clark County; Abbi Silver, Judge.

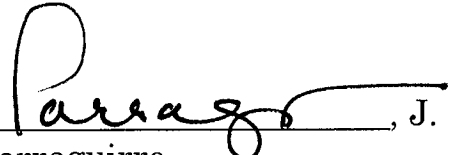
Appellant Frank Amichia contends that the district court's imposition of jail time as a condition of probation constitutes cruel and unusual punishment because the victims did not sustain a monetary loss, physical injury, or property damage. The district court sentenced Amichia to a prison term of 12 to 30 months, suspended execution of the sentence, and placed Amichia on probation with the sole condition of probation being a 12-month jail term with credit for 255 days' time served. Because Amichia has not argued that the applicable sentencing statutes are unconstitutional, the sentence is within the parameters of the applicable statutes, and we are not convinced that the sentence is so grossly disproportionate to the offense as to shock the conscience, we conclude the sentence does not violate the constitutional proscriptions against cruel and unusual punishment. See NRS 193.130(2)(c); NRS 176A.100(1)(c); NRS 176A.400; NRS 205.465(2); 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). We further conclude that the district court did not abuse its discretion by imposing a jail term as a condition of probation. See Creps v. State, 94 Nev. 351, 356-63, 581 P.2d 842, 846-51 (1978) (discussing incarceration as a condition of probation). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Abbi Silver, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk