

IN THE SUPREME COURT OF THE STATE OF NEVADA

BENJAMIN ROMERO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58927

FILED

APR 11 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Malm*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of felony driving under the influence of intoxicating liquor (DUI). Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

Appellant's sole issue on appeal is that his sentence of 36 to 90 months in prison constitutes cruel and unusual punishment under the Eighth Amendment because he has stopped using alcohol and was cooperative with court services. The district court commended appellant's positive progress but also recognized that he has suffered 11 prior convictions for DUI, speeding, evading an officer, reckless driving, non-moving traffic violations, and other unidentified crimes. Appellant's sentence falls within the statutory limits and is not so unreasonably disproportionate to his offense as to shock the conscience, Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996), particularly considering the nature of the offense and his extensive criminal history. Accordingly, we ORDER the judgment of conviction AFFIRMED.

Cherry
_____, J.
Cherry

Pickering
_____, J.
Pickering

Hardesty
_____, J.
Hardesty

cc: Hon. Patrick Flanagan, District Judge
Calvert & Hubach, LLC
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk