

IN THE SUPREME COURT OF THE STATE OF NEVADA

DOUGLAS S. GASHER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59661

FILED

JUL 25 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal pursuant to NRAP 4(c) from a judgment of conviction, pursuant to a guilty plea, of possession of stolen property. Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

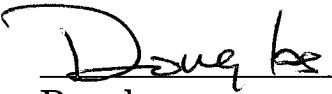
Appellant Douglas S. Gasher contends that the district court abused its discretion because it adjudicated him a habitual criminal without making a specific finding that the sentence was “just and proper.” However, the record reveals that the State met its burden of proof when it filed certified copies of Gasher’s prior felony convictions in the district court, the district court considered the parties’ arguments, and the district court declined to dismiss the habitual criminal count. See NRS 207.010; O’Neill v. State, 123 Nev. 9, 15, 153 P.3d 38, 42 (2007); Hughes v. State, 116 Nev. 327, 333, 996 P.2d 890, 893 (2000) (holding that there is no requirement for “particularized findings” that it is “just and proper” to adjudicate a defendant as a habitual criminal (internal quotations omitted)). We conclude that the district court did not abuse its discretion in this regard.

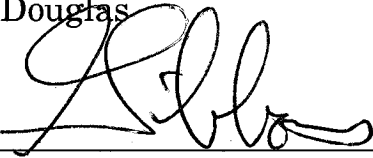
Gasher further contends that his 8- to 20-year prison sentence shocks the conscience and constitutes cruel and unusual punishment.

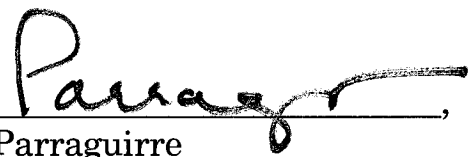
Because Gasher does not argue that the habitual criminal punishment statute is unconstitutional, his sentence is within the parameters of that statute, see NRS 207.010, and we are not convinced that the sentence is so grossly disproportionate to the gravity of the offense (possession of stolen property) and Gasher's history of recidivism as to shock the conscience, we conclude the sentence does not violate the constitutional proscriptions against cruel and unusual punishment. See Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion); Ewing v. California, 538 U.S. 11, 29 (2003) (plurality opinion); Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996).

Having considered Gasher's contentions and concluded that he is not entitled to relief, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Elissa F. Cadish, District Judge
Nguyen & Lay
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk