

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBIN LYNN GARDNER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60321

FILED

DEC 13 2012

TACIE K. LINDEMAN
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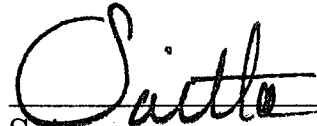
ORDER OF AFFIRMANCE

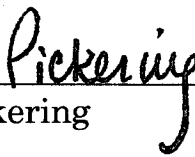
This is an appeal from a judgment of conviction, pursuant to a guilty plea, of attempted lewdness with a child under 14 years of age. Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

Appellant Robin Lynn Gardner contends that the district court abused its discretion by imposing a sentence constituting cruel and unusual punishment. We disagree. This court will not disturb a district court's sentencing determination absent an abuse of discretion. See Parrish v. State, 116 Nev. 982, 989, 12 P.3d 953, 957 (2000). Gardner's prison term of 24-96 months falls within the parameters provided by the relevant statutes, see NRS 193.330(1)(a)(1) (attempt to commit category A felony punishable as a category B felony and "minimum term of not less than 2 years and a maximum term of not more than 20 years"); NRS 201.230(2), and the sentence is not so unreasonably disproportionate to the gravity of the offense as to shock the conscience, see Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979); see also Harmelin v.

Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion). We conclude that the district court did not abuse its discretion at sentencing, and we

ORDER the judgment of conviction AFFIRMED.¹


Saitta _____, J.


Pickering _____, J.


Hardesty _____, J.

cc: Hon. Robert W. Lane, District Judge
Carl M. Joerger
Nye County District Attorney
Attorney General/Carson City
Nye County Clerk

¹Although we filed the fast track statement and appendix submitted by Gardner, they fail to comply with the Nevada Rules of Appellate Procedure. In his fast track statement, Gardner fails to include a statement of facts and refers to matters in the record without specific citation to the appendix. See NRAP 3C(e)(1)(C); NRAP 28(e)(1). Additionally, Gardner's appendix contains only a transcript of the sentencing hearing. See NRAP 30(b)(2). We also note that the State's fast track response does not contain margins in compliance with NRAP 3C(h)(1) and NRAP 32(a)(4). Counsel for Gardner and the State are cautioned that the failure to comply with the briefing and appendix requirements in the future may result in the imposition of sanctions. See NRAP 3C(n); Smith v. Emery, 109 Nev. 737, 743, 856 P.2d 1386, 1390 (1993).