

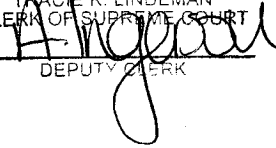
IN THE SUPREME COURT OF THE STATE OF NEVADA

SHAUN ANDREWS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60531

FILED

DEC 12 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
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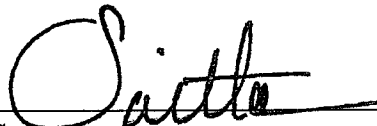
ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of burglary and possession of a stolen vehicle. Eighth Judicial District Court, Clark County; Doug Smith, Judge.

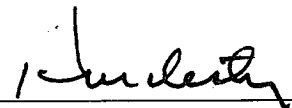
Appellant's sole challenge on appeal is that his sentence of 60 to 190 months in prison pursuant to NRS 207.010 is so disproportionate to his crimes as to constitute cruel and unusual punishment in the absence of violence in the commission of the instant offense and in his criminal history. Strict proportionality between the crime and the sentence is not constitutionally required; rather, the Eighth Amendment forbids only an extreme sentence that is grossly disproportionate to the crime and the defendant's history of recidivism. Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion); Ewing v. California, 538 U.S. 11, 29 (2003) (plurality opinion); see also Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (stating that sentence within statutory limits is not "cruel and unusual punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience" (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 200, 221-22 (1979))).

Here, the sentence is within statutory limits, see NRS 207.010, and appellant does not challenge the statute as unconstitutional. Considering his robust criminal history, including at least four felony convictions, and the instant offense, we conclude that the sentence is not unreasonably disproportionate, even considering the nonviolent nature of the instant offense. We further note that although the offenses supporting the habitual criminal adjudication do not involve violence, NRS 207.010 makes no special allowance for nonviolent crimes but leaves that consideration to the district court's discretion. Arajakis v. State, 108 Nev. 976, 983, 843 P.2d 800, 805 (1992). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Saitta


_____, J.
Pickering


_____, J.
Hardesty

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