

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRYAN STEWART,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 61213

FILED

MAR 13 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY Angela
DEPUTY CLERK

ORDER OF AFFIRMANCE


This is an appeal from a judgment of conviction, pursuant to a guilty plea, of coercion. Eighth Judicial District Court, Clark County; Jerome T. Tao, Judge.

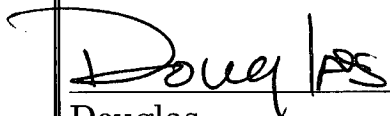
Appellant argues that his sentence of 28 to 72 months in prison constitutes cruel and unusual punishment under the United States and Nevada Constitutions because the district court declined to follow the Department of Parole and Probation's recommendation of 12 to 48 months in prison. We have observed that "[a] sentence within the statutory limits is not 'cruel and unusual punishment unless the statute fixing [the] punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience.'" Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996) (quoting Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979)).


Here, the sentence is within statutory limits, see NRS 207.190, and appellant does not challenge the statute as unconstitutional. Additionally, the district court was aware that appellant's criminal history included two prior felonies, violations of temporary protective orders, and harassment and stalking incidents. The victim also provided a statement

describing the physical, emotional, and financial impact of appellant's crime against her. From this, we conclude that appellant failed to show that his sentence constitutes cruel and unusual punishment. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

cc: Hon. Jerome T. Tao, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk