

IN THE SUPREME COURT OF THE STATE OF NEVADA

VICTOR THOMAS FLANDERS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63278

FILED

NOV 14 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of two counts of possession of visual presentation depicting sexual conduct of a child. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.


Appellant Victor Thomas Flanders contends that given his age, lack of prior criminal history, severe health issues, low-to-moderate risk to reoffend, and the possibility of receiving inadequate medical care and medication for his life-threatening conditions while in prison, the district court abused its discretion at sentencing and imposed sentences constituting cruel and unusual punishment. We disagree.

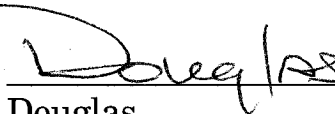
We review a district court's sentencing decision for an abuse of discretion. *See Parrish v. State*, 116 Nev. 982, 989, 12 P.3d 953, 957 (2000). Regardless of its severity, a sentence that is within the statutory limits is not "cruel and unusual punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience." *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)); *see also Harmelin v.*

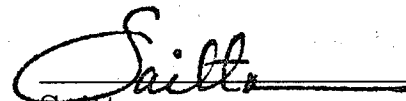
13-34184

Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion) (explaining that the Eighth Amendment does not require strict proportionality between crime and sentence; it forbids only an extreme sentence that is grossly disproportionate to the crime). Flanders' concurrent terms of 12 to 30 months are within the parameters provided by the relevant statute, see NRS 200.730(1), and Flanders does not allege that this statute is unconstitutional. We conclude that the record demonstrates that the sentence was not so unreasonably disproportionate to the offenses as to shock the conscience, and that the district court did not abuse its discretion at sentencing. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

cc: Hon. Michelle Leavitt, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk