IN THE SUPREME COURT OF THE STATE OF NEVADA

GETYE ASCHALEW A/K/A GETIYE ASCHALEW DUBALE. Appellants, VS. THE STATE OF NEVADA. Respondent.

No. 63844

FILED

DEC 1 6 2013

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a Eighth Judicial guilty plea, of attempted theft, a category D felony. District Court, Clark County; Stefany Miley, Judge.

Appellant Getye Aschalew contends that his sentence constitutes cruel and unusual punishment because he was convicted of a non-violent property offense, no one suffered any physical injury, and he had a minimal criminal record. 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. 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). The district court imposed a prison term of 12 to 30 months; the term stipulated to by the parties in the guilty plea agreement. This sentence is within the

parameters provided by the relevant statutes, see NRS 205.0835(3) (theft in amount of \$650 or more punishable as category C felony); NRS 193.330 (1)(a)(4) (attempt to commit category C felony punishable as category D felony); NRS 193.130(2)(d) (category D felony punishable by imprisonment for minimum term of 1 year and maximum term of 4 years), and Aschalew does not allege that those statutes are unconstitutional. We are not convinced that the sentence imposed is so grossly disproportionate to the crime as to constitute cruel and unusual punishment. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

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/ Junety, J.

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Hon. Stefany Miley, District Judge Clark County Public Defender Attorney General/Carson City Clark County District Attorney Eighth District Court Clerk