

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RANDALL RENE ROMERO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 66057

FILED

JUN 16 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of conspiracy to violate the Uniform Controlled Substances Act and possession of a controlled substance with the intent to sell. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

Appellant Randall Rene Romero claims that his 10- to 25-year sentence as a habitual criminal constitutes cruel and unusual punishment.¹ 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) (internal quotation marks omitted); see also *Harmelin v. Michigan*, 501 U.S. 957, 1000-01 (1991) (plurality opinion) (explaining the Eighth Amendment does not require strict proportionality between crime and sentence; it forbids only an

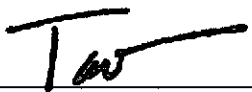
¹Romero does not challenge his 12- to 32-month sentence for possession of a controlled substance.

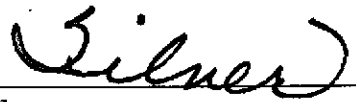
extreme sentence that is grossly disproportionate to the crime). Here, the sentence imposed is within the parameters provided by the relevant statute. See NRS 207.010(1)(b). Romero does not allege the statute is unconstitutional. And we are not convinced that the sentence imposed is so grossly disproportionate to the crime and Romero's history of recidivism as to constitute cruel and unusual punishment. See *Ewing v. California*, 538 U.S. 11, 29 (2003) (plurality opinion).

To the extent Romero also claims that the district court abused its discretion at sentencing, we conclude his claim is without merit. The record reveals that the parties agreed to Romero's own recognizance release and Romero agreed to serve a prison term of 10 to 25 years if he failed to appear for sentencing. Thereafter, Romero failed to appear for sentencing and the district court subsequently sentenced him in accordance with the terms of the agreement. We discern no abuse of discretion in this regard.

Having concluded Romero is not entitled to relief, we
ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Law Offices of Martin Hart, LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk