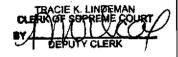
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DARIUS KHALIL DOLLY, Appellant, vs. THE STATE OF NEVADA, Respondent. No. 67686

FILED

AUG 0 4 2015



ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of discharging a firearm at or into an occupied structure, and child abuse, neglect, or endangerment. Eighth Judicial District Court, Clark County; Adriana Escobar, Judge.

On appeal, appellant Darius Dolly claims his sentence of 19 to 48 months constitutes cruel and unusual punishment because he has no prior criminal history, the Division of Parole and Probation recommended probation, and the sentence fails to serve the interests of justice.

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 sentence imposed is within the

parameters provided by the relevant statutes, see NRS 202.285; NRS 200.508(1), and Dolly does not allege those statutes are unconstitutional. We conclude the sentence imposed is not so grossly disproportionate to the crime as to constitute cruel and unusual punishment, therefore we ORDER the judgment of conviction AFFIRMED.

Gibbons

Two______, C.J.

Tao

Jelner

Silver

cc: Hon. Adriana Escobar, District Judge Keith C. Brower Attorney General/Carson City Clark County District Attorney Eighth District Court Clerk