

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHAD LEWIS BROADWAY A/K/A
CHAD LOUIS BROADWAY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 66863

FILED

OCT 20 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 burglary while in possession of a firearm. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

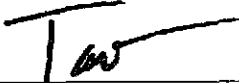
Appellant Chad Broadway argues his sentence of 35 to 156 months in prison constitutes cruel and unusual punishment because it is disproportionate to the gravity of his offense and his prior criminal history. Broadway specifically asserts he was convicted of a non-violent offense, he was sentenced to a long prison term, and the prison term was imposed to run consecutively to the 24- to 60-month prison term he received in another case.

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 176.035(1); NRS 205.060(4), and Broadway does not allege that those statutes are unconstitutional. We conclude the sentence imposed is not so grossly disproportionate to the crime and Broadway's history of recidivism as to constitute cruel and unusual punishment. *See Ewing v. California*, 538 U.S. 11, 29 (2003) (plurality opinion).

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


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Janet J. Berry, District Judge
Law Offices of Lyn E. Beggs, PLLC
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk