

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRANDON RAY MCNEIL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68261

FILED

DEC 29 2015

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of robbery. Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

Appellant Brandon McNeil claims his sentence to a prison term of 5 to 15 years for taking \$110 constitutes cruel and unusual punishment.

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).

Here, McNeil was sentenced to a crime against the person under NRS chapter 200, *see* NRS 200.380(2), and not a crime against

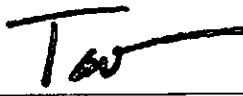



15-901668

property under NRS chapter 205, therefore his argument regarding the value of the property is inapposite. And McNeil received the sentence he bargained for. Further, the sentence imposed is within the parameters provided by the relevant statute, *see id.*, and McNeil does not allege the statute is unconstitutional. We conclude the sentence imposed is not so grossly disproportionate to the crime as to constitute cruel and unusual punishment. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Jessie Elizabeth Walsh, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk