

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SONIA RODARTE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70248

FILED

OCT 19 2016

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of two counts of embezzlement. Second Judicial District Court, Washoe County; David A. Hardy, Judge.


Appellant Sonia Rodarte claims her consecutive sentences of 36 to 90 months in prison, for an aggregate term of 72 to 180 months, constitutes cruel and unusual punishment because it shocks the conscience. She asserts the Division of Parole and Probation is supposed to base its recommendation on the normal punishment given for similar offenses in other jurisdictions and her sentence is 600% higher than that recommended by the Division of Parole and Probation.


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 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 205.0835(4); NRS 205.300(1), and Rodarte does not allege that those statutes are unconstitutional. Here, Rodarte embezzled \$101,295.71 from her employer. We conclude the sentence imposed is not grossly disproportionate to the crime and does not constitute cruel and unusual punishment.

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. David A. Hardy, District Judge
Las Vegas Defense Group, LLC
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk