

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DEVAN TAYLOR,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 72101

**FILED**

MAR 14 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK


*ORDER OF AFFIRMANCE*


Devan Taylor appeals from a judgment of conviction entered pursuant to a guilty plea of burglary while in possession of a firearm and robbery. Eighth Judicial District Court, Clark County; William D. Kephart, Judge.

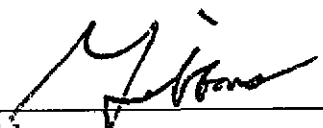
Taylor argues his sentence constitutes cruel and unusual punishment because he was a minor and under the influence of drugs when he committed the offenses, and the district court failed to follow the sentence recommendation contained in the presentence investigation report or the recommendations of the parties. 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) (Kennedy, J., concurring) (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).

Here, the district court heard the defense arguments regarding these issues, stated it agreed with much of the defense's position, but concluded an aggregate term of 48 to 240 months in prison was the appropriate sentence, which was within the parameters of the relevant statutes. See NRS 176.035(1); NRS 200.380(2); NRS 205.060(4). Taylor does not argue the statutes are unconstitutional and we conclude his sentence is not so disproportionate to his offenses as to shock the conscience. We also note the district court is not required to follow the sentencing recommendation of the Division of Parole and Probation, see *Collins v. State*, 88 Nev. 168, 171, 494 P.2d 956, 957 (1972), or the recommendations of the parties. We conclude Taylor's sentence does not constitute cruel and unusual punishment, and we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. William D. Kephart, District Judge  
Law Offices of Martin Hart, LLC  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk