

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LAMAR BROWN, A/K/A CALVIN
LAMAR NICKO BROWN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 71698

FILED

MAR 14 2018

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

ORDER OF AFFIRMANCE


Lamar Brown appeals from a judgment of conviction entered pursuant to a guilty plea of violation of lifetime supervision by a convicted sex offender. Eighth Judicial District Court, Clark County; Jennifer P. Togliatti, Judge.

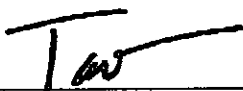
Brown claims imposition of a 5 to 20 year sentence pursuant to the habitual criminal statute, for a crime for which the State was initially willing to not oppose probation, is absurd and constitutes cruel and unusual punishment.

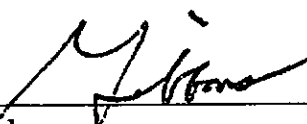
Regardless of its severity, "a sentence within the statutory limits is not 'cruel and unusual punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience.'" *Blume v. State*, 112 Nev. 472, 475, 915 P.2d 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 statute, *see* NRS 207.010(1)(a), and Brown does not allege the statute is unconstitutional. Brown was previously convicted of voluntary manslaughter with the use of a deadly weapon and attempted sexual assault. We conclude the sentence imposed is not grossly disproportionate to the crime and Brown's history of recidivism and does not constitute cruel and unusual punishment. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Jennifer P. Togliatti, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk