

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID DURAN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 72787

FILED

JUN 13 2018

ELIZABETH A. BROWN  
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BY S. Young  
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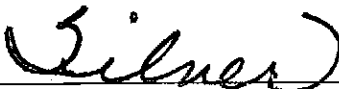
*ORDER OF AFFIRMANCE*

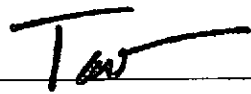
David Duran appeals from a judgment of conviction entered pursuant to a guilty plea of leaving the scene of an accident and driving and/or being in actual physical control of a motor vehicle while under the influence of an intoxicating liquor or alcohol resulting in substantial bodily harm. Eighth Judicial District Court, Clark County; William D. Kephart, Judge.


Duran argues his sentence constitutes cruel and unusual punishment because he has never received treatment for his alcohol problems. 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).

At the sentencing hearing, the court heard the arguments of the parties and Duran's mitigation evidence. The district court then imposed a sentence totaling 8 to 20 years in prison, which is within the parameters provided by the relevant statutes, *see* NRS 176.035(1); NRS 484C.430(1); NRS 484E.010(3). Duran does not allege that those statutes are unconstitutional. We conclude the sentence imposed is not grossly disproportionate to the crimes 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. William D. Kephart, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk