

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JESSICA LEANN HAMLET,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74265

FILED

JUN 13 2018

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


ORDER OF AFFIRMANCE

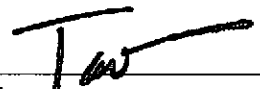
Jessica Leann Hamlet appeals from a judgment of conviction entered pursuant to a guilty plea of possession of a forged instrument and conspiracy to commit a crime. Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

Hamlet argues her sentence constituted cruel and unusual punishment. Hamlet asserts the district court improperly imposed the maximum possible sentence and disregarded the recommendation contained within the presentence investigation report and her mitigation evidence. 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 district court stated it had considered the facts of this case, Hamlet's criminal record, and all of the evidence discussed at the sentencing hearing. The district court then imposed a term of 24 to 60 months in prison for the possession of a forged instrument offense, a consecutive term of 364 days in the Nye County Detention Center for the conspiracy offense, and ordered her Nevada sentences to run consecutive to a sentence Hamlet was serving in Texas. The sentence imposed is within the parameters provided by the relevant statutes, *see* NRS 176.035(1); NRS 193.130(2)(c); NRS 193.140; NRS 199.480(3); NRS 205.160, and Hamlet does not allege that those statutes are unconstitutional. 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). We conclude the sentence imposed is not grossly disproportionate to the crimes and does not constitute cruel and unusual punishment.¹ Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

¹We deny the State's request to dismiss this appeal.

cc: Hon. Robert W. Lane, District Judge
Las Vegas Defense Group, LLC
Attorney General/Carson City
Nye County District Attorney
Nye County Clerk