

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JACK HOWARD, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 72394

**FILED**

JUL 20 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Jack Howard, Jr. appeals from a judgment of conviction entered pursuant to a guilty plea of possession of a controlled substance with the intent to sell. Eighth Judicial District Court, Clark County; Kerry Louise Earley, Judge.

Howard argues his sentence constitutes cruel and unusual punishment. Howard asserts his sentence is disproportionate to his crime and there was no proof he actually intended to sell controlled substances. 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).

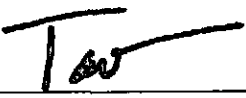
Howard’s sentence of 12 to 36 months is within the parameters provided by the relevant statutes, see NRS 193.130(2)(d); NRS

18-901564

453.337(2)(a), and Howard does not allege that those statutes are unconstitutional. We conclude the sentence imposed is not grossly disproportionate to the crime 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. Kerry Louise Earley, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk