

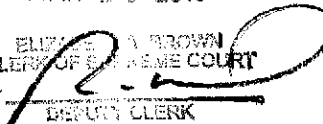
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANDREW ASHTON, A/K/A ANDREW
MICHAEL ASTON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 75632-COA

FILED

FEB 23 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Andrew Ashton appeals from a district court order revoking probation and an amended judgment of conviction. Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

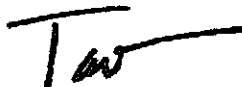
Ashton was convicted, pursuant to a guilty plea, of attempted possession of a stolen vehicle. The district court ordered him to serve a suspended sentence of 364 days in jail and placed him on probation for a period not to exceed three years. The district court subsequently revoked Ashton's probation after he violated its terms. The district court imposed a reduced sentence of six months in jail.

Ashton argues his six-month sentence is cruel and unusual because he took responsibility for his crime and entered a guilty plea. 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 statutes, *see* NRS 193.330(1)(a)(4); NRS 205.273(3), and Ashton 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 order revoking probation and amended judgment of conviction AFFIRMED.


_____, J.
Tao


_____, J.
Gibbons


_____, J.
Bulla

cc: Chief Judge, Eighth Judicial District Court
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk