

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHARLES ALBERT REDD, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 75300-COA

FILED

MAR 20 2019

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

ORDER OF AFFIRMANCE

Charles Albert Redd, Jr. appeals from a judgment of conviction entered pursuant to an *Alford*¹ plea of voluntary manslaughter with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

Redd argues his sentence amounts to cruel and unusual punishment because it is so disproportionate to his crimes that it shocks the conscience. Redd contends the district court improperly imposed sentence without consideration of Redd's mitigation evidence or his positive activities while incarcerated.


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

¹*North Carolina v. Alford*, 400 U.S. 25 (1970).

Amendment does not require strict proportionality between crime and sentence; it forbids only an extreme sentence that is grossly disproportionate to the crime).

The district court heard the arguments of the parties and Redd's mitigation evidence. The district court noted Redd had no justification for shooting the victim and he had a criminal history that included acts of violence. The district court concluded the appropriate sentence was a term of 48 to 120 months in prison for the primary offense plus a consecutive term of 48 to 120 months in prison for the deadly weapon enhancement, which was within the parameters provided by the relevant statutes, *see* NRS 193.165(1); NRS 200.080. Redd 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.


_____, J.
Tao


_____, J.
Gibbons


_____, J.
Bulla

cc: Hon. Eric Johnson, District Judge
Nguyen & Lay
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk