

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAVON OTIS BEARD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 75391-COA

FILED

MAR 20 2019

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

ORDER OF AFFIRMANCE

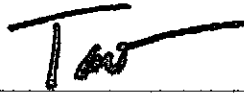
Javon Otis Beard appeals from a judgment of conviction, pursuant to a guilty plea, of robbery with the use of a deadly weapon. Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

Beard contends his sentence constituted cruel and unusual punishment. 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 district court sentenced Beard to three to ten years for the robbery and to a consecutive three to eight years for the deadly weapon enhancement. The sentence imposed is within the parameters provided by the relevant statutes, *see* NRS 193.165(1); NRS 200.380(2), and Beard 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.


_____, J.
Tao


_____, J.
Gibbons


_____, J.
Bulla

cc: Hon. Eric Johnson, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk