

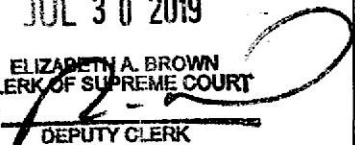
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

PABLO CESAR TORRES-ESPARZA
A/K/A PABLO CESAR TORRES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 75933-COA

FILED

JUL 30 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Pablo Cesar Torres-Esparza appeals from a judgment of conviction entered pursuant to a guilty plea of driving and/or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor resulting in death and driving and/or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor resulting in substantial bodily harm. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.


Torres-Esparza argues his sentence constitutes cruel and unusual punishment because the district court improperly imposed the same term for the count involving substantial bodily harm as it did for the count involving death. Torres-Esparza also contends the district court improperly ordered him to serve the terms consecutively. 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 Torres-Esparza to serve consecutive terms of 96 to 240 months in prison. The sentence imposed is within the parameters provided by the relevant statutes, *see* NRS 176.035(1); NRS 484C.430(1), and Torres-Esparza does not allege that those statutes are unconstitutional. Moreover, NRS 176.035(1) plainly gives the district court discretion to run subsequent sentences consecutively, *Pitmon v. State*, 131 Nev. 123, 128-29, 352 P.3d 655, 659 (Ct. App. 2015), and Torres-Esparza fails to demonstrate the district court improperly imposed consecutive terms in this matter. 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.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Tierra Danielle Jones, District Judge
James J. Ruggeroli
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk