

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RIVER THUNDER CHAMBERS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 77373-COA

FILED

SEP 30 2019

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

ORDER OF AFFIRMANCE

River Thunder Chambers appeals from a judgment of conviction, pursuant to a guilty plea, of principal to trafficking in controlled substances: Flunitrazepam, Gamma-Hydroxybutyrate and Schedule I substances, except marijuana, more than 14 grams, but less than 28 grams, and conspiracy to violate the uniform controlled substance act, first offense. Third Judicial District Court, Lyon County; John Schlegelmilch, Judge.

Chambers argues that, when considering the totality of the circumstances, his sentence of 32 to 120 months in prison constitutes cruel and unusual punishment in violation of the Eighth Amendment. He asserts the district court should have sentenced him to the minimum possible term of 24 months because he has a minimal criminal history; he has a history of substance abuse and addiction, which likely played a major factor in his criminal conduct; and a lengthy sentence serves no public interest.


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 193.130(2)(c); NRS 453.3385(1)(b); NRS 453.401(1)(a), and Chambers 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.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. John Schlegelmilch, District Judge
Walther Law Offices, PLLC
Matthew K. Merrill
Attorney General/Carson City
Lyon County District Attorney
Third District Court Clerk