

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARSCHEL LOUIS CARROLL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

MARSCHEL LOUIS CARROLL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 83102-COA

FILED

JAN 05 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

No. 83103-COA

ORDER OF AFFIRMANCE

Marscel Louis Carroll appeals from amended orders of the district court revoking probation and reinstating the judgments of conviction entered in district court case numbers CR9048 (Docket No. 83102) and CR9049A (Docket No. 83103). These cases were consolidated on appeal. See NRAP 3(b). Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

Carroll claims that his sentences amount to 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).


In Docket No. 83102, Carroll failed to surrender as required after having been granted bail on “various” felony charges in an otherwise unrelated case. He was convicted pursuant to a guilty plea of “attempted failing to appear.” In Docket No. 83103, Carroll was convicted pursuant to a guilty plea of attempted possession of document or personal identifying information to establish false status or identity. In each case, the district court initially imposed a sentence of 19 to 48 months, suspended the sentences, placed Carroll on probation for a period not to exceed five years, and ordered the sentences to be served consecutively. The district court subsequently revoked Carroll’s probation in both cases and imposed the underlying sentences.

The sentences imposed are within the parameters provided by the relevant statutes, see 1999 Nev. Stat., ch. 288, § 1, at 1186-87 (former NRS 193.130(2)(e)); NRS 193.330(1)(a)(5), (6); NRS 199.335(2)(a); NRS 205.465(2), and Carroll does not allege that those statutes are unconstitutional. We conclude the sentences imposed are not grossly disproportionate to the crimes and do not constitute cruel and unusual punishment. Therefore, this claim is without merit.

Carroll also claims the district court may have erred by including language in each order indicating that the sentences in the two cases were aggregated. Carroll fails to demonstrate the district court's alleged error affected his substantial rights. Therefore, to the extent it was error, it was harmless. See NRS 178.598.

For the foregoing reasons, we

ORDER the judgments of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Robert W. Lane, District Judge
Aisen Gill & Associates LLP
Attorney General/Carson City
Nye County District Attorney
Nye County Clerk