

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DERRICK ANTHONY MCKINNEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85612-COA

FILED

AUG 08 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

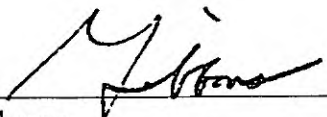
Derrick Anthony McKinney appeals from a judgment of conviction, entered pursuant to a guilty plea, of attempted ownership or possession of firearm by prohibited person. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

McKinney argues his sentence amounts to cruel and unusual punishment because it is disproportionate to the crime. 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 McKinney to 12 to 30 months in prison, suspended his sentence, and placed him on probation for a period not to exceed 12 months. The sentence imposed is within the parameters

provided by the relevant statutes, see NRS 176A.100(1)(c); NRS 193.130(2)(c); NRS 193.153(1)(a)(3); NRS 202.360(1), and McKinney 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. Therefore, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

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