IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MIGUEL ANGEL LOPEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 87509-COA

FILED

DEC 24 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

Miguel Angel Lopez appeals pursuant to NRAP 4(c) from a judgment of conviction, entered pursuant to a guilty plea, of battery with the use of a deadly weapon, cruelty to animals, battery constituting domestic violence, and child abuse, neglect or endangerment. Eighth Judicial District Court, Clark County; Monica Trujillo, Judge.

First, Lopez argues the State breached the plea agreement when it argued for jail time as a condition of probation. "When the State enters into a plea agreement, it is held to the most meticulous standards of both promise and performance with respect to both the terms and the spirit of the plea bargain." *Sparks v. State*, 121 Nev. 107, 110, 110 P.3d 486, 487 (2005) (internal quotation marks omitted).

Pursuant to the terms of the plea agreement, the State agreed to "ha[ve] no opposition to probation with the right to argue the terms and conditions of probation." At the sentencing hearing, the State argued for maximum suspended sentences for each count. As a condition of probation, the State asked the district court to impose "at least some minimal term of

incarceration." Because the district court had the discretion to impose flat jail time as a condition of Lopez's probation, *see Haney v. State*, 124 Nev. 408, 414 n.21, 185 P.3d 350, 354 n.21 (2008); *see also* NRS 176A.400 (granting the district court broad discretion to fix the terms and conditions of probation), and because nothing in the plea agreement limited the State's argument as to the conditions of probation, we conclude the State's argument for jail time as a condition of probation was not a breach of the plea agreement. Therefore, no relief is warranted on this claim.

Next, Lopez contends his sentence constitutes cruel and unusual punishment.[1] 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 200.481(2)(e)(1); NRS 200.485(1)(a); NRS 200.508(2)(b)(1); NRS 574.100(6)(a), and Lopez does not allege that those

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[1]The district court sentenced Lopez to an aggregate prison term of 55 to 144 months.

statutes are unconstitutional. We conclude the sentence imposed is not grossly disproportionate to the crime and does not constitute cruel and unusual punishment. In so concluding, we disagree with Lopez's contention that the State's agreement to not oppose probation demonstrates the imposed sentence shocks the conscience. We, therefore,

ORDER the judgment of conviction AFFIRMED.

_____, C.J.
Gibbons

_____, J.
Bulla

_____, J.
Westbrook

cc: Hon. Monica Trujillo, District Judge
Legal Resource Group
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk