

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BOBBY ERIC GARZA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 90737-COA

BOBBY ERIC GARZA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 90738-COA

FILED

JAN 14 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Bobby Eric Garza appeals from two judgments of conviction, both entered pursuant to guilty pleas. In district court case no. CR2407700 (Docket No. 90738-COA), Garza was convicted of battery with the use of a deadly weapon. In district court case no. CR2407701 (Docket No. 90737-COA), Garza was convicted of burglary of a motor vehicle. These cases were consolidated on appeal. *See* NRAP 3(b)(2). Sixth Judicial District Court, Humboldt County; Michael Montero, Judge.

Garza argues the district court erred in accepting his guilty plea in district court case no. CR2407700 because there was no factual basis to support his purported use of a deadly weapon. Generally, this court will not consider a challenge to the validity of a guilty plea on direct appeal from a

judgment of conviction.¹ *Bryant v. State*, 102 Nev. 268, 272, 721 P.2d 364, 367-68 (1986), *as limited by Smith v. State*, 110 Nev. 1009, 1010-11 n.1, 879 P.2d 60, 61 n.1 (1994). “Instead, a defendant must raise a challenge to the validity of his or her guilty plea in the district court in the first instance” *Id.* at 272, 721 P.2d at 368; *see also Smith*, 110 Nev. at 1010-11 n.1, 879 P.2d at 61 n.1 (stating that unless the error clearly appears from the record, a challenge to the validity of a guilty plea must be first raised in the district court in a motion to withdraw guilty plea or postconviction petition for a writ of habeas corpus). Garza did not previously raise a challenge to the validity of his guilty plea in the district court, and the alleged errors do not clearly appear in the record.² Therefore, we decline to consider this claim on appeal.

¹In his reply brief, Garza contends his claim is properly considered on direct appeal because he is not claiming his plea was entered unknowingly and involuntarily, only that “there was not an adequate factual basis in the record for the court to accept the plea.” However, a challenge to the factual basis of a guilty plea is a challenge to the validity of the plea. *See Righetti v. Eighth Jud. Dist. Ct.*, 133 Nev. 42, 47, 388 P.3d 643, 648 (2017) (“Soliciting a factual basis is simply one of several ways for a district court to ensure that a defendant is pleading guilty voluntarily and intelligently”); *see also Hurd v. State*, 114 Nev. 182, 187, 953 P.2d 270, 273 (1998) (holding a guilty plea was valid because the defendant “admitted to a factual basis in the plea memorandum, which adequately explained the elements of the charges”).

²We note that Garza has not included a copy of the plea canvass transcript in his appendix on appeal, and it is the appellant’s burden to provide this court with a complete record with which to review his claims. *See* NRAP 30(b)(3); *see also Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 600, 172 P.3d 131, 133 (2007) (stating that the “appellant bears the responsibility of ensuring an accurate and complete record on appeal”).

Garza also argues that his sentence in district court case no. CR2407701 of 19 to 48 months in prison constitutes cruel and unusual punishment given the facts of the offense and the mitigation presented. 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)(e); NRS 205.060(2)(a)(1), and Garza does not allege that those statutes are unconstitutional. We have considered the sentence and the crime to the extent permitted by the record on appeal,³ and we conclude the sentence imposed is not disproportionate

³As previously noted, Garza did not include the plea canvass transcript in his appendix on appeal, and the supreme court denied his motion to transmit the presentence investigation report filed in district court case no. CR2407701 because the motion did not contain any grounds for the requested relief or any legal argument as required. See NRAP 27(a)(2); NRAP 30(b)(6). Moreover, neither party discussed the facts of the burglary offense at the sentencing hearing. Therefore, our review of the crime is limited to the charging document and the offer of proof contained within the guilty plea agreement, which states that on April 12, 2024, Garza “knowingly, willfully and unlawfully entered the vehicle of [the victim] with the intent to commit larceny.” To the extent Garza attempts to relate the contents of the presentence investigation report and discuss the details of the burglary offense in his opening brief, “[f]acts stated in counsel’s brief

to the crime and thus does not constitute cruel and unusual punishment. *See Sims v. State*, 107 Nev. 438, 440, 814 P.2d 63, 64 (1991) (stating it is “presumptively improper for [an appellate] court to superimpose its own views on sentences of incarceration lawfully pronounced by our sentencing judges”). Accordingly, we

ORDER the judgments of conviction AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Michael Montero, District Judge
Nevada State Public Defender's Office
Prasad Law PLLC
Attorney General/Carson City
Humboldt County District Attorney
Humboldt County Clerk

will not supply a deficiency in the record.” *Sparks v. State*, 96 Nev. 26, 29, 604 P.2d 802, 804 (1980).