IN THE SUPREME COURT OF THE STATE OF NEVADA

CANADIAN LYNELL JOHNSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52526

FILED

NOV 18 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY A. Ingersoll
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of attempted pandering. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge.

Appellant Canadian Lynell Johnson contends that his 12- to 36-month prison sentence is grossly disproportionate to his offense because he was merely pretending to be a pimp, his codefendant was punished for a gross misdemeanor, and two people who actually ran an illegal brothel only received 18-month prison sentences. We review a district court's sentencing determination for abuse of discretion. Randell v. State, 109 Nev. 5, 8, 846 P.2d 278, 280 (1993). Johnson has not shown that the district court relied on impalpable or highly suspect evidence, see Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976), or, as discussed below, demonstrated that the relevant statutes are unconstitutional, see Blume v. State, 112 Nev. 472, 475, 915 P.2d 282, 284 (1996). Because Johnson's sentence falls within the statutory limits and we are not convinced it is so grossly disproportionate to the gravity of Johnson's offense and his history of recidivism as to shock the conscience, we conclude that it does not violate the constitutional proscriptions against cruel and unusual punishment. See NRS 193.130(2)(e); NRS

193.330(1)(a)(5); NRS 201.300(2)(a)(2); Ewing v. California, 538 U.S. 11, 29 (2003) (plurality opinion); Harmelin v. Michigan, 501 U.S. 957, 1000-01 (1991) (plurality opinion); Blume, 112 Nev. at 475, 915 P.2d at 284; Glegola v. State, 110 Nev. 344, 348, 871 P.2d 950, 953 (1994).

Johnson further contends that NRS 201.300 is unconstitutionally overbroad because it impermissibly restricts the exercise of free speech and is void for vagueness because it fails to provide adequate notice of what conduct is prohibited and permits arbitrary or discriminatory enforcement. Johnson's claim lacks merit. See Ford v. State, 127 Nev. ___, ___, ___ P.3d ___, ___ (Adv. Op. No. 55, September 29, 2011) (holding that NRS 201.300 is not unconstitutionally overbroad or vague).

Having considered Johnson's contentions and concluded that they are without merit, we

ORDER the judgment of conviction AFFIRMED.

Douglas, J.

Hardesty, J.

Parraguirre, J.

cc: Chief Judge, Eighth Judicial District Court
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk