

IN THE SUPREME COURT OF THE STATE OF NEVADA

GETIYE ASCHALEW DUBALE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 62118

FILED

JUL 22 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malme
DEPUTY CLERK

ORDER OF AFFIRMANCE

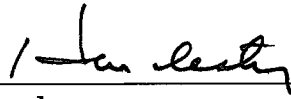
This is an appeal from a judgment of conviction, pursuant to a guilty plea, of attempted theft. Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

Appellant claims that requiring him to serve a prison term and pay \$10,000 in restitution constitutes cruel and unusual punishment because this was a first-time, non-violent, property offense.

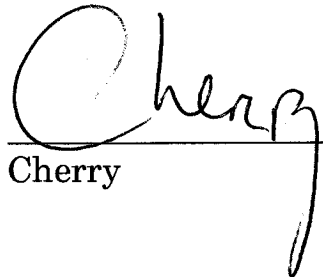
Regardless of its severity, a sentence that is within the statutory limits is not "cruel and unusual punishment unless the statute fixing punishment is unconstitutional or the sentence is so unreasonably disproportionate to the offense as to shock the conscience." *Blume v. State*, 112 Nev. 472, 475, 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 that 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 12-to-32-month sentence imposed is within the parameters provided by the relevant statutes, see 1995 Nev. Stat., ch. 443, § 127(1), at 1216; 1995 Nev. Stat., ch. 443, § 3(1)(a)(4), at

1168; 1995 Nev. Stat., ch. 443, § 1(2)(d), at 1168; and appellant does not allege that those statutes are unconstitutional. We are not convinced that the sentence imposed is so grossly disproportionate to the crime as to constitute cruel and unusual punishment. Therefore, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

cc: Hon. Jessie Elizabeth Walsh, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk