

IN THE SUPREME COURT OF THE STATE OF NEVADA

DUSTIN ANDERSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 62522

FILED

OCT 17 2013

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

ORDER OF AFFIRMANCE

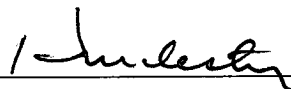
This is an appeal from a judgment of conviction, pursuant to a jury verdict, of conspiracy to commit burglary and three counts of burglary. Eighth Judicial District Court, Clark County; Doug Smith, Judge.

Appellant Dustin Anderson contends that the district court erred by imposing an unconstitutionally disproportionate sentence because the crimes for which he was convicted were minor and the prior felonies which made him eligible for habitual offender adjudication were nonviolent and drug-related. We disagree.

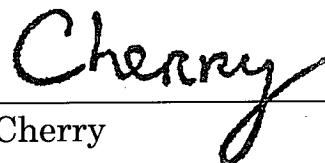
This court has consistently afforded the district court wide discretion in its sentencing decision, *see, e.g., Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987), and the district court is within its discretion to consider nonviolent prior convictions, *Arajakis v. State*, 108 Nev. 976, 983, 843 P.2d 800, 805 (1992). Here, the district court was presented with evidence that Anderson had multiple prior misdemeanor, gross misdemeanor, and felony convictions dating back to 1991. Anderson's sentence of 12 months on count I and consecutive sentences of 60 to 180 months on counts II, III, and IV, fall within the parameters provided by the relevant statutes. *See* NRS 193.140; NRS 199.480(3)(a);

NRS 207.010(1)(a). Anderson does not allege that the statutes imposing punishment are unconstitutional, and we do not believe that the punishment imposed is so grossly disproportionate to the crime and Anderson's criminal history as to constitute cruel and unusual punishment, see *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 *Ewing v. California*, 538 U.S. 11, 29 (2003) (plurality opinion); *Harmelin v. Michigan*, 501 U.S. 957, 1000-01 (1991) (plurality opinion). We conclude that the district court did not abuse its discretion, and we

ORDER the judgment of conviction AFFIRMED.¹


Hardesty, J.


Parraguirre


Cherry, J.

cc: Hon. Doug Smith, District Judge
Cannon & Tannery
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹The fast track statement and response do not comply with NRAP 3C(h)(1) and NRAP 32(a)(4) because the text is not double-spaced. Counsel for both parties are cautioned that the failure to comply with the formatting requirements in the future may result in the imposition of sanctions. See NRAP 3C(n).