

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GARRET JAMES REUBEN VIGIL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73002

FILED

DEC 13 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Garrett James Reuben Vigil appeals from a judgment of conviction entered pursuant to a guilty plea of child endangerment and destruction or injury to property. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

Vigil argues his sentence of consecutive terms totaling 544 days in jail constitutes cruel and unusual punishment because the district court could have sentenced him to serve concurrent terms and a shorter sentence was warranted given the mitigating circumstances. Vigil also argues a lengthier term serves no penal purpose.


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 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 falls within the parameters provided by the relevant statutes. *See* NRS 176.035(1); NRS 193.140; NRS 193.155(2); NRS 200.508(2)(b)(1); NRS 206.310. Vigil does not allege those statutes are unconstitutional or his sentence was so disproportionate to the offenses that it shocks the conscience. We conclude the sentence imposed is not grossly disproportionate to the crimes and does not constitute cruel and unusual punishment. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Chief Judge, Second Judicial District Court
Troy Curtis Jordan
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk