

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRIAN CRAIG SPRINKLE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 72992

FILED

MAR 14 2018

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

ORDER OF AFFIRMANCE

Brian Craig Sprinkle appeals from a judgment of conviction entered pursuant to a jury verdict of grand larceny of a motor vehicle, attempted grand larceny of a motor vehicle, possession of a controlled substance, and eluding a police officer in a manner posing a danger to persons or property. Fourth Judicial District Court, Elko County; Alvin R. Kacin, Judge.

First, Sprinkle claims the district court abused its discretion by not granting him probation for the count of eluding a police officer in a manner posing a danger to persons or property because he said he was sorry, he did not blame drugs for his crimes, and he presented a program of drug rehabilitation for the district court's consideration. We review a district court's sentencing decision for abuse of discretion. *Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009).


Sprinkle's 24- to 60-month prison term falls within the parameters of the relevant statute. See NRS 484B.550(3)(b). The record does not suggest the district court's sentencing decision was based on impalpable or highly suspect evidence. See *Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). And the district court's decision to grant probation is discretionary. See NRS 176A.100(1)(c). Moreover, the record

demonstrates the district court considered Sprinkle's capacity to be a productive member of society, his nine prior felony convictions, and the fact that his criminal act placed a lot of people in danger. Given this record, we conclude the district court did not abuse its discretion at sentencing.

Second, Sprinkle claims his sentence for eluding a police officer in a manner posing a danger to persons or property constitutes cruel and unusual punishment because he did not kill or maim anyone. "The Eighth Amendment does not require strict proportionality between crime and sentence. Rather, it forbids only extreme sentences that are 'grossly disproportionate' to the crime." *Harmelin v. Michigan*, 501 U.S. 957, 1001 (1991) (plurality opinion). Similarly, the Nevada Supreme Court has observed "[a] sentence within the statutory limits is not cruel and unusual punishment unless the statute fixing [the] 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) (internal quotation marks omitted). Sprinkle does not claim NRS 484B.550(3)(b) is unconstitutional, and we conclude the sentence imposed is not grossly disproportionate to the crime and does not constitute cruel and unusual punishment.

Having concluded Sprinkle is not entitled to relief, we
ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Alvin R. Kacin, District Judge
Elko County Public Defender
Attorney General/Carson City
Elko County District Attorney
Elko County Clerk