

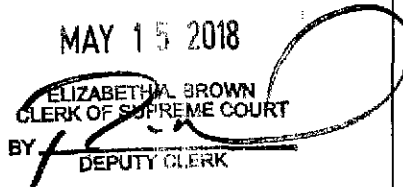
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARQUEZ ANDERSON, A/K/A  
MARQUEZ ANDERSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 72643

**FILED**

MAY 15 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Marquez Anderson appeals from a judgment of conviction entered pursuant to a guilty plea of conspiracy to commit robbery and burglary. Eighth Judicial District Court, Clark County; David B. Barker, Senior Judge.

Anderson claims the district court erred by not granting him probation because he was 19 years old at the time of sentencing, he was unemployed and had just become a father when the crimes were committed, there was no evidence he possessed a firearm during the commission of the crimes, no physical violence occurred during the commission of the crimes, he was a law-abiding citizen with family and community support, all of his codefendants had at least one prior felony conviction, he did not have any prior convictions, and the Division of Parole and Probation deemed him suitable for community supervision. 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).

Anderson's concurrent 24- to 60-month and 36- to 120-month prison terms fall within the parameters of the relevant statutes. See NRS 199.480(1)(a); NRS 205.060(2). The record does not suggest the district court's sentencing decision was based on palpable or highly suspect evidence. See *Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976). The district court's decision to grant probation is discretionary. NRS 176A.100(1)(c). And the district court is not required to follow the Division's sentencing recommendations. *Collins v. State*, 88 Nev. 168, 171, 494 P.2d 956, 957 (1972). Moreover, the record demonstrates the district court considered the seriousness of the original offenses, the fact weapons were involved, and the benefit Anderson received by pleading guilty to significantly reduced charges. Given this record, we conclude the district court did not abuse its discretion at sentencing.

Anderson also claims his sentence constitutes cruel and unusual punishment because it is disproportionate to his involvement and culpability for these offenses. "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). Anderson does not claim NRS 199.480(1)(a) and NRS 205.060(2) are unconstitutional, and we conclude the sentence

imposed is not grossly disproportionate to Anderson's crimes and does not constitute cruel and unusual punishment.

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

Silver, C.J.  
Silver

Tao, J.  
Tao

Gibbons, J.  
Gibbons

cc: Chief Judge, Eighth Judicial District Court  
Hon. David B. Barker, Senior Judge  
Brent D. Percival  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk