IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOHN PATRICK GRIMBLOT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 75362-COA

ORDER OF AFFIRMANCE

John Patrick Grimblot appeals from a judgment of conviction, pursuant to an *Alford* plea,[1] of coercion sexually motivated and child abuse, neglect, or endangerment. Eighth Judicial District Court, Clark County; Mark B. Bailus, Judge.

Grimblot argues the district court abused its discretion by allowing a victim-impact speaker to make a statement exceeding the parameters of NRS 176.015(3), resulting in a fundamentally unfair sentencing hearing. Because counsel objected, we review the admission of the statements for harmless error. *See Dieudonne v. State*, 127 Nev. 1, 9 n.3, 245 P.3d 1202, 1207 n.3 (2011). The speaker's testimony contained a few curse words and her hopes that Grimblot would suffer. To the extent these comments exceeded the scope of statements envisioned in NRS

[1]*North Carolina v. Alford*, 400 U.S. 25 (1970).

176.015(3),[2] *see Dieudonne*, 127 Nev. at 9-10, 245 P.3d at 1208 (noting victim expression is not without limits and "racially charged comments, threats, and cursing are not appropriate"), we conclude any error in admitting them was harmless. "Judges spend much of their professional lives separating the wheat from the chaff. . .," *Randell v. State*, 109 Nev. 5, 7, 846 P.3d 278, 280 (1993), and nothing in the record suggests the sentencing judge was influenced by the comments.

Grimblot also argues his sentence constitutes cruel and unusual punishment. Regardless of its severity, "[a] sentence 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).

Grimblot was sentenced to consecutive terms of 28 to 72 months and 16 to 40 months in prison, which are within the parameters provided

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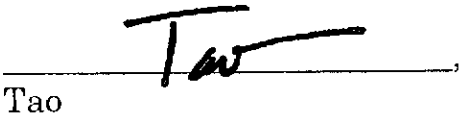
[2]NRS 176.015(3) states that "the court shall afford the victim an opportunity to: (a) Appear personally, by counsel or by personal representative; and (b) Reasonably express any views concerning the crime, the person responsible, the impact of the crime on the victim and the need for restitution."

by the relevant statutes, *see* NRS 200.508(1)(b)(1); NRS 207.190(2)(a), and Grimblot does not allege that those statutes are unconstitutional. We conclude the sentence imposed is not grossly disproportionate to the crime and does not constitute cruel and unusual punishment.

For the foregoing reasons, we conclude Grimblot is not entitled to relief, and we

ORDER the judgment of conviction AFFIRMED.



_____, J.
Tao

_____, J.
Gibbons

_____, J.
Bulla

cc: Hon. Mark B. Bailus, District Judge
Las Vegas Defense Group, LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk