

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

EDGAR MENDOZA-FERNANDEZ,  
A/K/A EDGAR MENDOZAFERNANDEZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 75938-COA

**FILED**

JUN 13 2019

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

*ORDER OF AFFIRMANCE*


Edgar Mendoza-Fernandez appeals from a judgment of conviction entered pursuant to a guilty plea of reckless driving. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.


Mendoza-Fernandez argues his sentence constitutes cruel and unusual punishment because his actions did not involve intentional conduct. 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).


At the sentencing hearing, the district court heard the arguments of the parties and stated it had reviewed Mendoza-Fernandez’ sentencing memorandum. The district court noted Mendoza-Fernandez drove while under the influence of alcohol and struck a pedestrian with his

vehicle. The district court concluded those actions warranted a prison term and sentenced Mendoza-Fernandez to serve 19 to 72 months in prison. The sentence imposed is within the parameters provided by the relevant statute, *see* NRS 484B.653(6), and Mendoza-Fernandez does not allege that statute is unconstitutional. We conclude the sentence imposed is not grossly disproportionate to the crime and does not constitute cruel and unusual punishment. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Elizabeth Goff Gonzalez, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk