


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBYN ANN JOHNSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 76901-COA

FILED

AUG 14 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Robyn Ann Johnson appeals under NRAP 4(c) from a judgment of conviction entered pursuant to a guilty plea of burglary and obtaining and/or using the personal identification information of another. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Johnson claims her sentence to concurrent prison terms totaling 36 to 216 months constitutes cruel and unusual punishment because it shocks the conscience. Johnson asserts she has a limited criminal history, a Doctor of Philosophy degree, is a certified drug and alcohol counselor, the Division of Parole and Probation recommended probation, and she informed the district court she would abide by any special conditions it may impose—including drug court. Johnson argues these facts and circumstances demonstrate she should have been placed on probation, where she could work to pay off the restitution she owes.

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


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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).

Here, the sentence falls within the parameters provided by the relevant statutes. *See* NRS 205.060(2); NRS 205.463(1). Johnson does not allege that those statutes are unconstitutional. We note the district court considered Johnson's misbehavior after she was released from custody and it determined that probation was not appropriate. And 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. Connie J. Steinheimer, District Judge
Scott W. Edwards
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk