

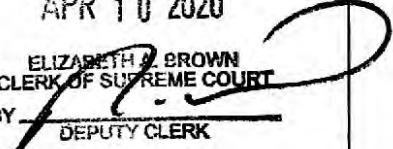
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ASHTON KRUKOWSKI, A/K/A  
ASHTON KURKOWSKI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 77919-COA

**FILED**

APR 10 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Ashton Krukowski appeals from a judgment of conviction, pursuant to a nolo contendere plea, of misdemeanor assault. Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

Krukowski claims his sentence constitutes cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution because it is grossly disproportionate to the offense he pleaded nolo contendere to and shocks the conscience. "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).

Krukowski was charged with attempted murder and he spent 545 days in custody while proceeding through competency court and awaiting his trial. Shortly after being deemed competent to proceed to trial, Krukowski accepted a plea offer and pleaded nolo contendere to one count of misdemeanor assault. The district court accepted Krukowski's plea and sentenced Krukowski to time served.

Krukowski now asserts that this sentence constitutes cruel and unusual punishment because the maximum penalty permitted for misdemeanor assault is six months. See NRS 193.150(1); NRS 200.471(2)(a). Here, the district court imposed the lowest possible sentence it could by sentencing Krukowski to time served. 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: Chief Judge, Eighth Judicial District Court  
Nguyen & Lay  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk