

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ALEX ARREOLA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 84651-COA

FILED

JAN 31 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Alex Arreola appeals from a judgment of conviction, entered pursuant to a guilty plea, of attempted lewdness with a child under the age of 14 years. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Arreola argues the district court's sentence violates the Eighth Amendment's prohibition against cruel and unusual punishment. In particular, Arreola argues his sentence was so disproportionate to the offense as to shock the conscience, the district court failed to consider mitigating factors, and a less severe punishment would have served the purposes of punishment just as effectively as the sentence imposed.

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).

Arreola's sentence of 8 to 20 years in prison is within the parameters provided by the relevant statutes, *see* 2013 Nev. Stat., ch. 229, § 3, at 977-78 (formerly NRS 193.330(1)(a)(1)); NRS 201.230, and Arreola does not allege that those statutes are unconstitutional. Moreover, the district court stated that it had considered Arreola's sentencing memorandum and character letters at the sentencing hearing. Arreola's counsel also argued at the sentencing hearing that probation was warranted for several reasons, and there is no indication the district court failed to consider these arguments or the mitigating evidence before it. After review, 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.
Bulla


_____, J.
Westbrook

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