IN THE COURT OF APPEALS OF THE STATE OF NEVADA

HUNTER THORNTON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85810-COA

FILED

JUN 16 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY [signature]
DEPUTY CLERK

ORDER OF AFFIRMANCE

Hunter Thornton appeals from a judgment of conviction, entered pursuant to a guilty plea, of battery resulting in substantial bodily harm. Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge.

Thornton argues that the district court abused its discretion and imposed a cruel and unusual sentence by imposing a harsher sentence than that received by his codefendant. The district court has wide discretion in its sentencing decision. *See Houk v. State*, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987). Generally, this court will not interfere with a sentence imposed by the district court that falls within the parameters of relevant sentencing statutes "[s]o long as the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable or highly suspect evidence." *Silks v. State*, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976); *see Cameron v. State*, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171 (1998). The sentence Thornton received is within the parameters provided by the relevant statutes, *see* NRS 193.130(2)(c); NRS 200.481(2)(b), and Thornton does not

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allege that the district court relied on impalpable or highly suspect evidence.

Rather, Thornton focuses his argument on the alleged unconstitutionality of his sentence and urges this court to apply the factors listed in *Solem v. Helm*, 463 U.S. 277 (1983), to find that his sentence of 12 to 60 months in prison is disproportionate to his codefendant's sentence of probation. 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).

In *Solem*, the United States Supreme Court outlined three factors to consider whether a sentence is disproportionate to the offense: (i) the gravity of the offense and harshness of the penalty; (ii) the sentences imposed on other criminals in the same jurisdiction; and (iii) the sentences imposed for commission of the same crime in other jurisdictions. 463 U.S. at 292. The second and third factors are only relevant, however, "in the rare case in which a threshold comparison of the crime committed and the sentence imposed leads to an inference of gross disproportionality." *Harmelin*, 501 U.S. at 960.

Thornton does not allege that his sentencing statutes are unconstitutional. And the crime Thornton was convicted of was a crime of

violence where the victim was severely injured. Given the gravity of the offense, Thornton's sentence of 12 to 60 months does not lead to an inference of gross disproportionality, and thus, the second and third *Solem* factors do not apply. Therefore, we conclude the sentence does not constitute cruel and unusual punishment and the district court did not abuse its discretion when imposing sentence. Accordingly, we

ORDER the judgment of conviction AFFIRMED.[1]

_______________, C.J.
Gibbons

_______________, J.
Westbrook

_______________, Sr.J.
Silver

cc: Hon. Ronald J. Israel, District Judge
Law Office of Rachael E. Stewart
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

[1]The Honorable Abbi Silver, Senior Justice, participated in the decision of this matter under a general order of assignment.