

**Filed 9/20/17 by Clerk of Supreme Court
IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

2017 ND 225

State of North Dakota,

Plaintiff and Appellee

v.

Donny Wagner,

Defendant and Appellant

No. 20170093

Appeal from the District Court of Morton County, South Central Judicial District, the Honorable Bruce B. Haskell, Judge.

AFFIRMED.

Per Curiam.

Gabrielle J. Goter, Assistant State's Attorney, Mandan, N.D., for plaintiff and appellee; submitted on brief.

Bobbi B. Weiler, Bismarck, N.D., for defendant and appellant; submitted on brief.

State v. Wagner
No. 20170093

Per Curiam.

[¶1] Donny Wagner appeals from an order denying his motion to correct an illegal sentence brought under N.D.R.Crim.P. 35(a). Wagner argues the district court abused its discretion by denying his motion for correction of sentence, alleging the court imposed an illegal sentence after revoking probation, and the court violated his Eighth Amendment protections by imposing cruel and unusual punishment.

[¶2] Wagner was sentenced within the statutory sentencing range and cites no authority that his sentence is disproportionate to the crime. *See State v. Gomez*, 2011 ND 29, ¶ 28, 793 N.W.2d 451 (a sentence within the statutory sentencing range is neither excessive nor cruel); *State v. Gray*, 2017 ND 108, ¶ 14, 893 N.W.2d 484 (declining to address a constitutional challenge where a party has not provided citations to relevant legal authorities or analysis). We summarily affirm under N.D.R.App.P. 35.1(a)(4) and (7).

[¶3] Gerald W. VandeWalle, C.J.
Lisa Fair McEvers
Daniel J. Crothers
Jerod E. Tufte
Jon J. Jensen