

IN THE SUPREME COURT OF THE STATE OF NEVADA

JASON ROBERT SPARKS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43656

FILED

MAY 22 2006

JANE T. M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of felony failure to stop on the signal of a police officer. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Judge. The district court adjudicated appellant Jason Robert Sparks a habitual criminal and sentenced him to serve a prison term of 60 to 150 months. Sparks presents two issues for our review.

First, Sparks contends that the district court erred by rendering its decision to adjudicate him a habitual criminal without the requisite proof of prior convictions. We disagree. Sparks stipulated that he should be sentenced as a habitual criminal in his plea memorandum. The State specified five prior felony convictions in its information. The district court discussed two other recent Eighth Judicial District felony convictions during its plea canvass and sentencing. The presentence report described the five prior felony convictions listed in the amended

information as well as one of the recent felony convictions discussed by the district court. The district court referred specifically to the two recent convictions that served as a basis to adjudicate Sparks a habitual criminal. "At no point did [Sparks] dispute -- nor has he now disputed -- the existence or validity of the prior convictions. Given these circumstances, we conclude that [Sparks] effectively stipulated to his prior convictions."¹

Second, Sparks contends that the district court violated his due process rights by failing to consider anything beyond his alleged prior convictions when deciding to adjudicate him a habitual criminal. We disagree. Our review of "the record as a whole indicates that the sentencing court was not operating under a misconception of the law regarding the discretionary nature of a habitual criminal adjudication and that the court exercised its discretion."² In addition to Sparks' prior convictions, the district court considered Spark's plea agreement, the information filed in this case, a presentence report prepared for an unrelated felony case, Sparks' responses during the plea canvass, and counsels' argument during sentencing. We conclude that the procedure


¹Hodges v. State, 119 Nev. 479, 485, 78 P.3d 67, 70 (2003).


²Hughes v. State, 116 Nev. 327, 333, 996 P.2d 890, 893-94 (2000).

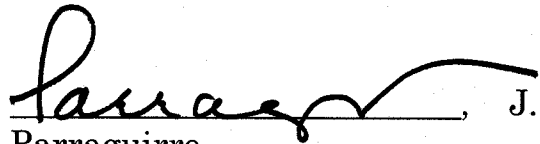
used by the district court in adjudicating Sparks as a habitual criminal did not violate his due process rights.

Having considered Sparks' contentions and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.³


_____, J.
Douglas


_____, J.
Becker


_____, J.
Parraguirre

cc: Hon. Joseph T. Bonaventure, District Judge
Amesbury & Schutt
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

³Because Sparks is represented by counsel in this matter, we decline to grant him permission to file documents in proper person in this court. See NRAP 46(b). Accordingly, the clerk of this court shall return to Sparks unfiled all proper person documents he has submitted to this court in this matter.