

IN THE SUPREME COURT OF THE STATE OF NEVADA

BOBBY LLOYD MANN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 45577

**FILED**

APR 26 2006

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. P. [Signature]*  
CHIEF DEPUTY CLERK

ORDER AFFIRMING IN PART AND REMANDING IN PART

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of two counts of obtaining money by false pretenses and one count of theft. Second Judicial District Court, Washoe County; Robert H. Perry, Judge. The district court adjudicated appellant Bobby Lloyd Mann a habitual criminal and sentenced him to a term of life imprisonment with the possibility of parole after 10 years. Mann presents two issues for our review.

First, Mann contends that the district court abused its discretion by adjudicating him a habitual criminal. Mann acknowledges that the record in this case shows that the district court knew that habitual criminal sentencing was discretionary and found the predicate offenses to be constitutionally valid. However, he argues that all six of the predicate convictions were for non-violent crimes, four of the convictions were stale and should have been dismissed, and the remaining two convictions were "not enough" to warrant the harsh sentence imposed in this case. We disagree.

The district court may dismiss counts brought under the habitual criminal statute when the prior offenses are stale, trivial, or where adjudication of habitual criminality would not serve the interests of

the statute or justice.<sup>1</sup> The habitual criminal statute, however, makes no special allowance for non-violent crimes or for remoteness of the prior convictions; these are merely considerations within the discretion of the district court.<sup>2</sup> We conclude that, in light of Mann's six prior felony convictions and a career of criminal activity,<sup>3</sup> the district court did not abuse its discretion in adjudicating him as a habitual criminal.<sup>4</sup>

Second, Mann contends that the district court erred by failing to render a specific sentence for each conviction. We agree. Once the district court has adjudicated a defendant as a habitual criminal, it uses the habitual criminal statute to fix the penalty for the defendant's substantive crimes.<sup>5</sup> The district court must render a sentence for each conviction.<sup>6</sup> Accordingly, the district court's failure to specify a sentence for each of Mann's convictions must be corrected.

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<sup>1</sup>See Sessions v. State, 106 Nev. 186, 190, 789 P.2d 1242, 1244 (1990).

<sup>2</sup>See Arajakis v. State, 108 Nev. 976, 983, 843 P.2d 800, 805 (1992).

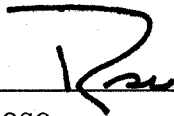
<sup>3</sup>The district court's determination of habitual criminality was based on a 1984 California conviction for furnishing a substance in lieu of cocaine, a 1985 Arkansas conviction for uttering bad checks, a 1990 Arkansas conviction for burglary, a 1990 Arkansas conviction for forgery, a 2001 Nevada conviction for felony DUI, and a 2002 Nevada conviction for uttering forged instruments. The district court observed that most of Mann's convictions involved some sort of fraud.

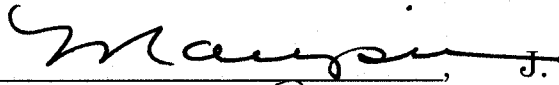
<sup>4</sup>See Tillema v. State, 112 Nev. 266, 271, 914 P.2d 605, 608 (1996); Arajakis, 108 Nev. at 984, 843 P.2d at 805.


<sup>5</sup>See NRS 207.010(1); Hollander v. State, 82 Nev. 345, 353, 418 P.2d 802, 806-07 (1966).

<sup>6</sup>See Odoms v. State, 102 Nev. 27, 33-34, 714 P.2d 568, 572 (1986).

For the reasons stated above, we  
ORDER the judgment of conviction AFFIRMED IN PART  
AND REMAND this matter to the district court for proceedings consistent  
with this order.

  
\_\_\_\_\_, C.J.  
Rose

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Robert H. Perry, District Judge  
Washoe County Public Defender  
Attorney General George Chanos/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk