

IN THE SUPREME COURT OF THE STATE OF NEVADA

BILLY MAX ACOX,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47046

FILED

JUL 27 2006

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of one count of driving under the influence (DUI) with two or more convictions for the same offense.¹ Seventh Judicial District Court, Eureka County; Steve L. Dobrescu, Judge. The district court sentenced appellant Billy Max Acox to serve a prison term of 28 to 72 months and ordered him to pay a \$2,000.00 fine.

In Krauss v. State we held that a defendant may "stipulate to or waive proof of the prior convictions at sentencing."² Here, Acox waived proof of his prior DUI convictions in his written guilty plea agreement, at his arraignment, and during his sentencing. Acox's counsel further informed the sentencing court that he had examined the DUI convictions from Washoe and White Pine counties and concluded that they were constitutionally firm. And the sentencing court accepted Acox's waiver.

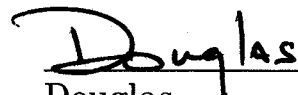
Acox now contends that the State should be required to prove the existence of prior DUI convictions as another check to ensure that the


¹See NRS 484.379(1); NRS 484.3792(4)(c).

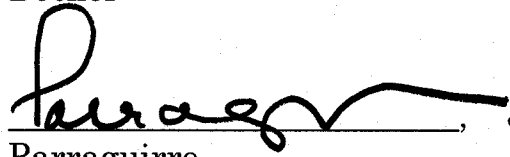
²116 Nev. 307, 311, 998 P.2d 163, 165 (2000); see also Hodges v. State, 119 Nev. 479, 78 P.3d 67 (2003).

convictions are indeed constitutional and that no mistakes were made. To this end, Acox invites us to set aside those cases that overruled Staley v. State.³ We decline Acox's invitation and

ORDER the judgment of conviction AFFIRMED.

 _____, J.
Douglas

 _____, J.
Becker

 _____, J.
Parraguirre

cc: Hon. Steve L. Dobrescu, District Judge
State Public Defender/Carson City
State Public Defender/Ely
Attorney General George Chanos/Carson City
Eureka County District Attorney
Eureka County Clerk

³106 Nev. 75, 707 P.2d 396 (1990), overruled by Hodges, 119 Nev. 479, 78 P.3d 67.