

IN THE SUPREME COURT OF THE STATE OF NEVADA

CYNTHIA HALLADAY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 48907

**FILED**

JUL 17 2007

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY: *[Signature]*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of one count of felony driving under the influence (DUI). Third Judicial District Court, Lyon County; David A. Huff, Judge. The district court sentenced appellant Cynthia Halladay to serve a prison term of 12 to 36 months, ordered her to pay a fine of \$2,000.00, and set bail pending the result of her appeal.

Prior to her conviction, Halladay filed a motion to suppress evidence of a prior DUI conviction, which she claimed was constitutionally infirm. The district court conducted an evidentiary hearing, made findings of fact, and denied the motion. Thereafter, Halladay entered into a plea agreement in which she reserved the right to appeal the district court's pretrial order.<sup>1</sup>

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<sup>1</sup>See NRS 174.035(3); see also Hardin v. Griffin, 98 Nev. 302, 646 P.2d 1216 (1982) (providing that challenges to admissibility of a prior conviction on constitutional grounds should be made in a motion to  
*continued on next page . . .*

On appeal, Halladay contends that the district court erred by denying her motion to suppress. Halladay acknowledges that she was represented by counsel during the misdemeanor proceedings that led to her second DUI conviction. She claims, however, that the record of those proceedings rebutted the presumption that the spirit of constitutional principles was respected,<sup>2</sup> and she presents three arguments in support of her claim: (1) that the justice court failed to address her personally to determine whether her plea was made voluntarily with an understanding of the nature of the charge and the consequences of the plea, (2) that the justice court failed to determine whether her first DUI conviction was constitutionally firm, and (3) that her second DUI conviction cannot be used because the charging document, a citation, did not allege the date of the offense and the court in which she was convicted for her first DUI offense.

Based on our review of the record of the April 5, 2004, proceeding and Halladay's signed DUI waiver of rights form, we conclude

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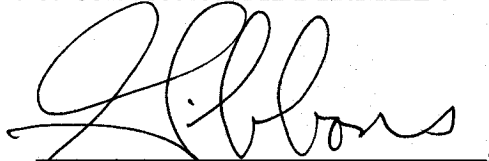
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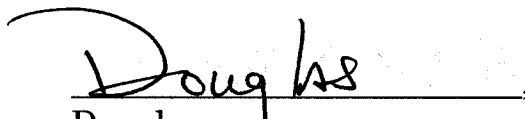
suppress, and a review of the district court's decision may be sought after the conviction).

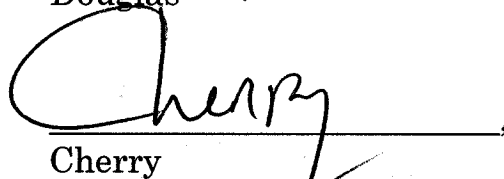
<sup>2</sup>See Davenport v. State, 112 Nev. 475, 477-78, 915 P.2d 878, 880 (1996); Dressler v. State, 107 Nev. 686, 697, 819 P.2d 1288, 1295 (1991).

that the district court did not err in denying Halladay's pretrial motion to suppress the prior DUI conviction.<sup>3</sup> Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
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Gibbons J.

  
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Douglas J.

  
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Cherry J.

cc: Hon. David A. Huff, District Judge  
Kenneth A. Stover  
Attorney General Catherine Cortez Masto/Carson City  
Lyon County District Attorney  
Lyon County Clerk

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<sup>3</sup>See Krauss v. State, 116 Nev. 307, 310, 998 P.2d 163, 165 (2000) (a defendant may stipulate to or waive proof of prior DUI convictions); Dressler, 107 Nev. at 689, 819 P.2d at 1290 ("unless the defendant can show that an omission or inaccuracy in describing a prior conviction had prejudiced him, the state is not precluded from using that prior conviction in seeking an enhancement of the defendant's punishment"); Koenig v. State, 99 Nev. 780, 789, 672 P.2d 37, 43 (1983) ("So long as the court records from [municipal and justice] courts reflect that the spirit of constitutional principles is respected, the convenience of the parties and the court should be given considerable weight, and the court record should be deemed constitutionally adequate.").