

IN THE SUPREME COURT OF THE STATE OF NEVADA

HOWARD ELLIS A/K/A KENNETH
WILLY WILSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48914

FILED

AUG 31 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY A. Alvarado
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a direct appeal from a judgment of conviction, pursuant to a guilty plea, of burglary. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Judge. In accordance with the plea agreement, the district court adjudicated appellant Howard Ellis a habitual criminal and sentenced him to serve a term of six to fifteen years in prison.¹

Ellis argues that the State violated the plea agreement by notifying the district court of his ten out-of-state prior felony convictions rather than the two prior felony convictions required for the negotiated small habitual criminal adjudication, thereby exposing him to the possibility of adjudication under the large habitual criminal statute. Ellis also argues that a number of these ten felony convictions were defective on their faces because they did not refer to him by the name "Howard Ellis." Finally, he argues that one of the two Nevada convictions used to support

¹See NRS 207.010.

his habitual criminal adjudication should not have been admitted because the State violated the plea agreement in that case.

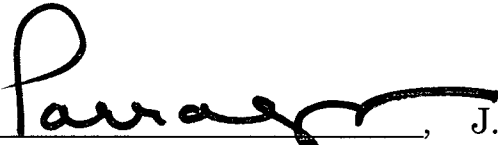
We conclude that the State did not violate the plea agreement in this case. The State agreed to seek small habitual criminal adjudication and a sentence of six to fifteen years, and it honored this agreement. Ellis was sentenced to serve a term of six to fifteen years. He therefore fails to establish that the presentation of additional felony convictions breached the agreement.

We also conclude that Ellis fails to establish that any of the out-of-state convictions were not his. The State contends that the out-of-state convictions under names other than Howard Ellis are under names the pre-sentence report indicates Ellis is known to use, a contention Ellis does not contest. Further, any impropriety in the out-of-state convictions is irrelevant because the two convictions supporting habitual criminal adjudication were Nevada convictions to which Ellis' counsel stipulated. The district court determined that the two Nevada convictions were not facially unconstitutional, and Ellis raises no argument to the contrary.


Finally, for the prior conviction in which Ellis contends the State breached the plea agreement, Ellis fails to provide any evidence of such a breach. He further fails to cite any authority for the proposition that a conviction based on an allegedly breached plea agreement cannot support a habitual criminal adjudication.

Having reviewed Ellis' arguments and concluded he is not entitled to relief, we

ORDER the judgment of the district court AFFIRMED.²


_____, J.
Parraguirre


_____, J.
Hardesty


_____, J.
Saitta

cc: Eighth Judicial District Court Dept. 6, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

²Because Ellis 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, this court shall take no action and shall not consider the proper person documents Ellis has submitted to this court in this matter.