

IN THE SUPREME COURT OF THE STATE OF NEVADA

DUANE WILLIAM ROCHE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48960

FILED

JUL 09 2007

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of felony driving while under the influence (DUI). Sixth Judicial District Court, Humboldt County; John M. Iroz, Judge. The district court sentenced appellant Duane William Roche to serve a prison term of 26 to 120 months.

Roche's sole contention is that the district court erred in enhancing his sentence, pursuant to NRS 484.3792(2), because the State failed to prove the prior misdemeanor convictions at sentencing under the standard enunciated in Dressler v. State.¹ We disagree.

NRS 484.3792 sets forth the penalties for the commission of the offense of DUI. Subsection 2(a) of NRS 484.3792 provides an enhanced penalty for individuals convicted of DUI that have previously been convicted of "[a] violation of NRS 484.379 that is punishable as a felony pursuant to paragraph (c) of subsection 1." The plain language of the statute requires an enhanced sentence for a defendant convicted of DUI if the defendant has a prior felony DUI conviction. Notably absent from the statute is any language requiring the State to prove the predicate

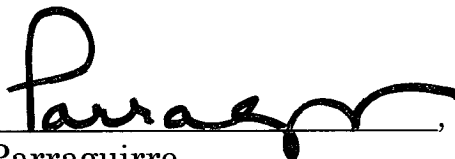
¹Dressler v. State, 107 Nev. 686, 819 P.2d 1288 (1991).

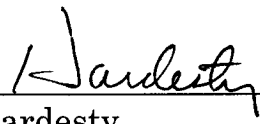
misdemeanor DUI convictions underlying the prior felony. We decline to impose a requirement that the Legislature did not intend.


While we stated in Dressler that "a defendant must be afforded an opportunity . . . to challenge the constitutional validity of the prior judgment of conviction"² if it is offered for enhancement purposes, the only prior conviction used for sentence enhancement pursuant to NRS 484.3792(2) is the prior felony DUI conviction. In this case, the State satisfied its evidentiary burden by providing a certified copy of the prior felony DUI conviction and the guilty plea agreement showing the conviction was constitutionally valid. Accordingly, the district court did not err in enhancing Roche's sentence pursuant to NRS 484.3792(2).

Having considered Roche's contention and concluded that it lacks merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Parraguirre


_____, J.
Hardesty


_____, J.
Saitta

²Id. at 694 n.3, 819 P.2d at 1293 n.3.

cc: Hon. John M. Iroz, District Judge
State Public Defender/Carson City
State Public Defender/Winnemucca
Attorney General Catherine Cortez Masto/Carson City
Humboldt County District Attorney
Humboldt County Clerk