

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL RAY WHEELER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48963

FILED

APR 07 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

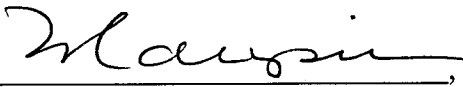
This is an appeal from a judgment of conviction, upon jury verdict, of domestic violence causing substantial bodily harm and an adjudication of habitual criminality. Second Judicial District Court, Washoe County; Robert H. Perry, Judge.

Appellant raised the following issues on appeal: (1) NRS 0.060(2) is void for vagueness; (2) the crime for which he was convicted is statutorily non-existent and he is subject only to the penalties of NRS 200.485(1) and (2); (3) pursuant to NRS 173.095, this court should adopt a presumption of retaliation when the State waits to charge habitual criminal after the verdict, pursuant to NRS 207.016(2), where the defendant exercises his Sixth Amendment right to a jury trial; and (4) the district court abused its discretion and violated Wheeler's due process rights by imposing the habitual offender sentence.

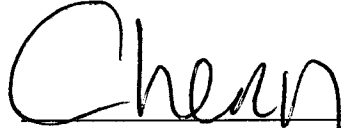
Having reviewed the full record on appeal and hearing oral

argument, we find Wheeler's arguments to be without merit. Accordingly,
we

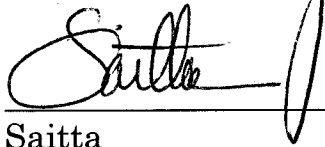
ORDER the judgment of the district court AFFIRMED.

 J.

Maupin

 J.

Cherry

 J.

Saitta

cc: Hon. Robert H. Perry, District Judge
Richard F. Cornell
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk