

IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS TINGLEY BROWN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49194

FILED

AUG 0 2 2007

ORDER OF AFFIRMANCE

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

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). Sixth Judicial District Court, Humboldt County; Richard Wagner, Judge. The district court sentenced appellant Thomas Tingley Brown to serve a prison term of 12 to 30 months.

Brown contends that the district court erred by using a constitutionally infirm prior conviction to enhance his sentence to a felony. He specifically claims that his Idaho conviction for misdemeanor DUI does not contain a valid waiver of counsel and the judge who accepted his guilty plea did not advise him of the dangers of self-representation.¹

To establish the validity of a prior misdemeanor conviction, the State must "affirmatively show either that counsel was present or that the right to counsel was validly waived, and that the spirit of constitutional principles was respected in the prior misdemeanor

¹Brown cites to Faretta v. California, 422 U.S. 806 (1975), and Cohen v. State, 97 Nev. 166, 625 P.2d 1170 (1981), in support of his contention.

proceedings.”² The stringent standard that district courts are required to follow to ensure that guilty pleas are constitutionally tendered in felony cases does not apply to guilty pleas in misdemeanor cases.³ “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.”⁴

Here, the State met its evidentiary burden by proffering a certified copy of the Idaho court records for Brown's 2000 misdemeanor DUI conviction. The records included the judgment, which stated that Brown was “fully advised of his statutory and constitution rights, including the right to be represented by counsel,” was “advised of the right to court appointed counsel,” and “waived [his] right to counsel.” The records also included Brown's signed statement of rights form, in which he acknowledged that he understood his constitutional rights, including his right to have an attorney represent him during all stages of the proceedings.

We conclude that Brown failed to provide evidence sufficient to overcome the presumption of the validity of the court records, the Idaho court records sufficiently reflected that the spirit of constitutional

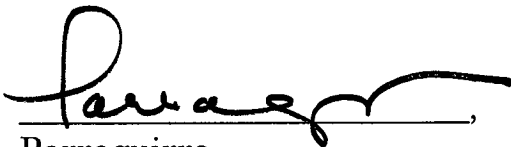
²Dressler v. State, 107 Nev. 686, 697, 819 P.2d 1288, 1295 (1991).

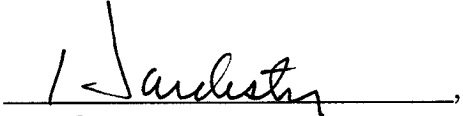
³Koenig v. State, 99 Nev. 780, 789, 672 P.2d 37, 43 (1983).


⁴Id.

principles was respected, and the district court did not err in using the Idaho conviction for enhancement purposes. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


Parraguirre, J.


Hardesty, J.


Saitta, J.

cc: Hon. Richard Wagner, 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