

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD ALLAN NICHOLLS, II,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 34570

FILED

NOV 19 1999

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of possession of a forged instrument. After finding that appellant was a habitual criminal pursuant to NRS 207.010(1), the district court sentenced appellant to a term of sixty (60) to one hundred ninety (190) months in prison. The district court also ordered appellant to pay a \$25.00 assessment fee. Appellant now appeals.

Appellant first argues that the district court erred in finding that he was a habitual criminal pursuant to NRS 207.016. Appellant contends that the state failed to prove that he was the person listed with the six (6) prior felony convictions. Appellant failed to offer any evidence or argument to prove he was not the person named in the state's proffered record of convictions. After a review of the record, we conclude that the district court properly concluded that appellant was the person named in the prior convictions and, therefore, did not err in finding that appellant was a habitual criminal.

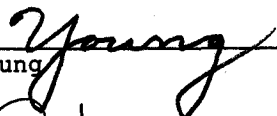

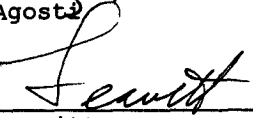
Appellant also argues that NRS 207.016(3) violates his right to due process because it allegedly does not allow him to argue mistaken identity as to the prior felony convictions. Appellant's argument is without merit. NRS

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207.016(3) merely provides that a criminal defendant may not challenge the validity of prior convictions in the context of a habitual criminal determination. Here, appellant could and did raise the issue of mistaken identity and, therefore, he fails to show how his due process rights were violated.

Having considered appellant's contentions and concluded that they lack merit, we

ORDER this appeal dismissed.

 _____ Young	J.
 _____ Agostini	J.
 _____ Leavitt	J.

cc: Hon. Donald M. Mosley, District Judge
Attorney General
Clark County District Attorney
Clark County Public Defender
Clark County Clerk