

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROGER MAXIMILLIAN MORRIS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 53316

**FILED**

**JUL 31 2009**

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, entered pursuant to a guilty plea, of one count of felony domestic battery. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge. The district court sentenced appellant Roger Maximillian Morris to serve a prison term of 24 to 60 months.

Morris contends that the district court erred by using a constitutionally infirm prior conviction to enhance his sentence to a felony. Morris specifically claims that his June 28, 2006, Yerington conviction for misdemeanor domestic battery was invalid because he was not represented by counsel, there is no indication that he was advised of and waived all of his rights before entering his plea, and he did not sign the "domestic violence waiver of rights and entry of plea" form until five days after entering his plea.

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 proceedings." Dressler v. State, 107 Nev. 686, 697, 819 P.2d 1288, 1295


(1991); see also English v. State, 116 Nev. 828, 835-36, 9 P.3d 60, 64 (2000) (applying the rule in Dressler to a domestic battery case). 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. Koenig v. State, 99 Nev. 780, 789, 672 P.2d 37, 43 (1983). “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.” Id. To this end, we have rejected the argument that a misdemeanor waiver of rights form was invalid because it was signed after the defendant entered his guilty plea when we have determined that the argument focused too narrowly and rigidly on the timing of the defendant’s waiver of his right to counsel and ignored the realities facing courts of limited jurisdiction in this state. Picetti v. State, 124 Nev. \_\_\_, \_\_\_, 192 P.3d 704, 709 (2008).


Here, the State met its evidentiary burden by proffering a certified copy of the Yerington municipal court record for Morris’ second misdemeanor domestic battery conviction. The record included the following documents: (1) a case report that indicated that on June 23, 2006, Municipal Court Judge Frances Vidal arraigned Morris by video and advised him of his rights, Morris pleaded guilty to domestic battery, and sentencing was set for June 28, 2006; (2) a document signed by Morris on June 23, 2006, in which he acknowledged that he read his rights, heard his rights explained by a judge, waived his right to counsel, and entered his plea freely and voluntarily; (3) a “domestic violence waiver of rights and entry of plea” form that Morris signed on June 28, 2006, in which he

had initialed each of his rights, waived his right to counsel, and acknowledged the range of allowable punishments for domestic battery and the voluntariness of his guilty plea; and (4) a judgment of conviction, filed on June 28, 2006, which stated "defendant appeared before the court, waived counsel and entered a plea of guilty to the charge of battery that constitutes domestic violence."

We conclude that Morris failed to provide evidence sufficient to overcome the presumption of the validity of the court records, the Yerington municipal court record sufficiently reflected that the spirit of constitutional principles was respected, and the district court did not err in using the Yerington conviction for enhancement purposes. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Steven R. Kosach, District Judge  
Washoe County Alternate Public Defender  
Attorney General Catherine Cortez Masto/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk