

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEANDRE WAYNE TATUM,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 54172

**FILED**

APR 07 2010

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 jury verdict of one count of felony domestic battery. Eighth Judicial District Court, Clark County; Kathy A. Hardcastle, Judge.

Appellant Deandre Wayne Tatum contends that his conviction for third offense domestic battery must be reversed because the State failed to present evidence of his prior domestic battery convictions. "In order to satisfy the requirements of due process when seeking to enhance an offense, the State must prove the prior convictions at or anytime before sentencing. Additionally, . . . a defendant may stipulate to or waive proof of prior convictions." Hudson v. Warden, 117 Nev. 387, 394-95, 22 P.3d 1154, 1159 (2001) (footnote omitted) (emphasis added). Here, after the jury was discharged, the prosecutor informed the district court that the parties had stipulated to the prior domestic battery convictions and asked if he could file copies of the judgments of conviction "just in case." Although the district court told the prosecutor to file the judgments of conviction, they were returned to the prosecutor to be submitted at the time of sentencing, and they were not filed at sentencing. Tatum did not object or correct the prosecutor when he announced the stipulation at

trial, and Tatum admitted that this was his third domestic battery offense at sentencing. We conclude from these circumstances that the parties stipulated to the existence of the prior convictions and the convictions were properly used to enhance the instant conviction to a felony. Accordingly, we

ORDER the judgment of conviction AFFIRMED.

Cherry, J.  
Cherry

Saitta, J.  
Saitta

Gibbons, J.  
Gibbons

cc: Hon. Kathy A. Hardcastle, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk