

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMEILEN DELLUMARIES GILES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57251

FILED

NOV 18 2011

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, for burglary while in possession of a firearm, robbery with the use of a deadly weapon, and ex-felon in possession of a firearm. Eighth Judicial District Court, Clark County; Jennifer Togliatti, Judge. Appellant Jameilen Giles raises two contentions concerning his habitual felon adjudication.

First, Giles contends that the prior felonies upon which his habitual felon adjudication was based were legally infirm because the prior plea agreements lacked sufficient consideration and two of the convictions arose out of the same transaction and could not be considered separate convictions for purposes of habitual felon adjudication. We discern no plain error. See Gallego v. State, 117 Nev. 348, 365, 23 P.3d 227, 239 (2001) (providing that the failure to object at trial precludes appellate review but for plain error). The State introduced certified judgments of conviction which indicated that Giles had been represented by counsel and, on their faces, did not appear constitutionally infirm. See Dressler v. State, 107 Nev. 686, 697-98, 819 P.2d 1288, 1295-96 (1991) (providing that certified judgment of conviction generally sufficient to establish the constitutional validity of prior conviction for enhancement

purposes “so long as the record of that conviction does not, on its face, raise a presumption of constitutional infirmity”); Cohen v. State, 97 Nev. 166, 169, 625 P.2d 1170, 1172 (1981) (providing that State must prove constitutional validity of prior proceedings used for habitual criminal adjudication by showing that attorney was present or defendant waived right to counsel). As the two prior convictions that Giles contends were part of the same transaction were charged in different informations, they were not a single prior conviction for purposes of applying the habitual felon statute. See Rezin v. State, 95 Nev. 461, 462, 596 P.2d 226, 227 (1979).

Second, Giles argues that the record does not indicate that the district court considered whether habitual felon treatment was appropriate beyond finding the requisite number of felony convictions. We conclude that this claim lacks merit. Having found that Giles had two prior convictions for robbery, the district court adjudicated him a habitual felon pursuant to NRS 207.012. The district court did not have the discretion to dismiss the count. NRS 207.012(3).

Having reviewed Giles’ contentions, and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.

Douglas, J.
Douglas

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

cc: Hon. Jennifer Togliatti, District Judge
Sandra L. Stewart
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk