


IN THE SUPREME COURT OF THE STATE OF NEVADA

PAUL DELBERT SIMPSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57445

FILED

SEP 29 2011

TRAGIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of felony DUI. First Judicial District Court, Carson City; James E. Wilson, Judge.

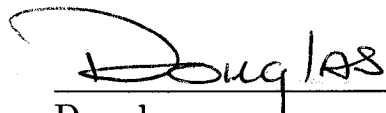
Appellant Paul Simpson contends that the district court erred by finding him guilty of felony DUI pursuant to NRS 484C.410(1)(a) because the State did not prove that he had previously been convicted of felony DUI. See NRS 484C.410(2). We disagree.

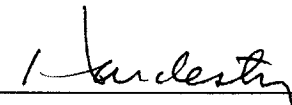
“In order to satisfy the requirements of due process when seeking to enhance an offense, the State must prove the prior conviction[] at or anytime before sentencing.” Hudson v. Warden, 117 Nev. 387, 394-95, 22 P.3d 1154, 1159 (2001); NRS 484C.410(2). A defendant may, however, waive proof of or stipulate to the existence of the prior conviction. Hobbs v. State, 127 Nev. ___, ___ n.4, 251 P.3d 177, 181 n.4 (2011); Krauss v. State, 116 Nev. 307, 310, 998 P.2d 163, 165 (2000).

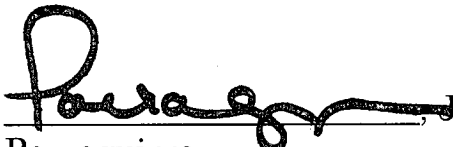
Here, the State did not offer any evidence of Simpson’s prior felony DUI conviction to the district court. Although the State notes that evidence of the prior felony conviction was presented to the justice court and transmitted to the district court, there is no indication in the record that the district court considered this evidence, and any argument that

mere transmission of the evidence to the district court was sufficient to establish the prior conviction is foreclosed by this court's recent decision in Hobbs, 127 Nev. at ___, 251 P.3d at 182. We conclude, however, that Simpson relieved the State of its burden to prove the prior felony conviction by admitting to its existence in the written guilty plea agreement. Specifically, Simpson agreed to plead guilty to DUI, a subsequent felony, and admitted the facts that supported all the elements of the charged offense as set forth in the attached criminal information. The criminal information charged Simpson with a subsequent offense DUI and alleged that he had been previously convicted of felony DUI on October 14, 2003, in Washoe County, Nevada. Accordingly, we conclude that the district court did not err by finding Simpson guilty of felony DUI, and we

ORDER the judgment of conviction AFFIRMED.¹


_____, J.
Douglas


_____, J.
Hardesty


_____.
Parraguirre

cc: Hon. James E. Wilson, District Judge
Waters Law Firm LLC
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk

¹Because we affirm the judgment of conviction, we deny as moot the district court's motion for a remand to determine whether evidence of the prior conviction may be admitted.