

IN THE SUPREME COURT OF THE STATE OF NEVADA

KENNETH ARTHUR HENDREN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57893

FILED

JAN 12 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Ingerson*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of possession of a firearm by a felon and possession of a short-barreled shotgun. Eighth Judicial District Court, Clark County; Doug Smith, Judge. Appellant Kenneth Arthur Hendren raises two issues on appeal.

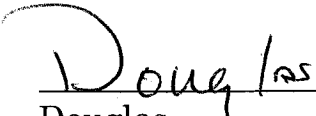
First, Hendren argues that his guilty plea should be set aside because he did not receive any benefit in exchange for his plea. Because the record does not indicate that Hendren challenged the validity of his guilty plea in the district court, his claim is not appropriate for review on direct appeal from the judgment of conviction and, therefore, we need not address it. See Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986), superseded by statute as stated in Hart v. State, 116 Nev. 558, 562 n.3, 1 P.3d 969, 971 n.3 (2000); see also O'Guinn v. State, 118 Nev. 849, 851-52, 59 P.3d 488, 489-90 (2002).


Second, Hendren argues that the district court erred by adjudicating him a habitual criminal based solely on his prior convictions, without exercising its discretion and considering other factors in making that decision. Hendren also appears to argue that his habitual criminal adjudication was erroneous because his prior crimes were non-violent

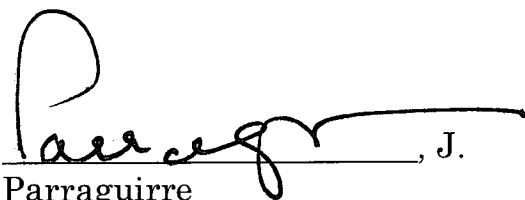
felonies. We require “a sentencing court to exercise its discretion and weigh the appropriate factors for and against the habitual criminal statute before adjudicating a person as a habitual criminal.” Hughes v. State, 116 Nev. 327, 333, 996 P.2d 890, 893 (2000); see also Clark v. State, 109 Nev. 426, 428, 851 P.2d 426, 427 (1993); NRS 207.010(2). The habitual criminal statute “makes no special allowance for non-violent crimes”; rather, this is a “consideration[] within the discretion of the district court.” Tillema v. State, 112 Nev. 266, 271, 914 P.2d 605, 608 (1996) (internal quotations omitted). Here, after hearing arguments from defense counsel and the State, the district court explained that a habitual criminal sentence was warranted in light of Hendren’s extensive criminal history, which included six prior felony convictions, four gross misdemeanors, and 14 stints in jail. Thus, the record demonstrates that the district court exercised its discretion in adjudicating Hendren a habitual criminal. See Hughes, 116 Nev. at 333, 996 P.2d at 893 (“[T]his court looks to the record as a whole to determine whether the sentencing court actually exercised its discretion.”). We further conclude that Hendren has failed to show that the adjudication was an abuse of discretion. See Martinez v. State, 114 Nev. 735, 737-38, 961 P.2d 143, 145 (1998) (“The sentencing judge is accorded wide discretion in imposing a sentence.”).

Having considered Hendren’s claims and concluded that no relief is warranted, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

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