

IN THE SUPREME COURT OF THE STATE OF NEVADA

ERIC BERNARD SANDERS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58707

FILED

APR 12 2012

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of felony DUI. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

Appellant Eric Bernard Sanders contends that a misdemeanor DUI conviction from 1996, used to enhance a DUI conviction in 2002 to a felony, was infirm, and therefore, the 2002 felony DUI conviction could not be used to enhance his instant DUI conviction to a felony pursuant to NRS 484C.410 (formerly codified as NRS 484.3792(2)(a)).¹ We disagree. The district court found that Sanders validly waived his right to counsel during the misdemeanor proceedings in 1996. See Picetti v. State, 124 Nev. 782, 789, 192 P.3d 704, 708-09 (2008); see also Koenig v. State, 99 Nev. 780, 789, 672 P.2d 37, 43 (1983). Moreover, Sanders failed to present evidence sufficient to rebut the presumption of regularity and prove that his 2002 felony DUI conviction was constitutionally infirm. See Parsons v.

¹Pursuant to the plea agreement, Sanders preserved the right to raise this issue and challenge the district court's denial of his "Motion to Strike Prior Judgment of Conviction" on appeal. See NRS 174.035(3).

State, 116 Nev. 928, 937 n.7, 10 P.3d 836, 841 n.7 (2000) (describing the standard governing the use of a prior felony conviction for enhancement purposes). Therefore, we conclude that the district court did not err by enhancing Sanders' instant DUI conviction to a felony, and we

ORDER the judgment of conviction AFFIRMED.

Cherry, J.
Cherry

Pickering, J.
Pickering

Hardesty, J.
Hardesty

cc: Hon. Steven P. Elliott, District Judge
Kenneth A. Stover
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk