

IN THE SUPREME COURT OF THE STATE OF NEVADA

JONTEE LAMAR BOYAKINS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58829

FILED

NOV 17 2011

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order denying a motion to correct an illegal sentence.¹ Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

In his motion filed on June 9, 2011, appellant claimed that the district court lacked jurisdiction to sentence him as a habitual felon because the State filed a notice of habitual felon after appellant was sentenced. Appellant also claimed that his sentence was illegal because the State failed to present certified copies of his prior judgments of convictions.

In Grey v. State, this court concluded that the district court's authority to impose a habitual criminal sentence is "clearly premis[ed]. . . on the State's filing of an allegation of habitual criminality" pursuant to NRS 207.016(2), regardless of whether a defendant disputes his status as

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

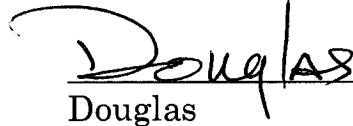
a habitual criminal. 124 Nev. 110, 124, 178 P.3d 154, 163-64 (2008); see also Hodges v. State, 119 Nev. 479, 484, 78 P.3d 67, 70 (2003).

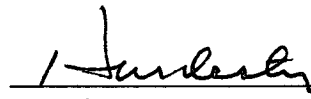
However, despite appellant's allegations, we conclude that in this case, appellant received sufficient notice of the State's intent to seek treatment as a habitual criminal. In Grey, the defendant was convicted by jury trial and did not stipulate to treatment as a habitual criminal. In this case, appellant pleaded guilty and signed a guilty plea agreement that stated that he stipulated to treatment under the habitual felon statute. The guilty plea agreement was filed in the district court. The district court, at the change of plea hearing, canvassed appellant regarding the stipulation. The district court made sure that appellant knew he was stipulating to treatment as a habitual felon and explained how the sentence would be structured. The presentence investigation report indicated that appellant had been convicted of eight prior felonies, including two convictions for robbery, and listed possible sentence terms under the habitual felon statute. Appellant did not challenge the validity of any of his prior convictions. We conclude that appellant received appropriate notice of the State's intent to seek treatment as a habitual felon, and therefore the district court had jurisdiction to sentence appellant as a habitual felon.² Further, we conclude that appellant

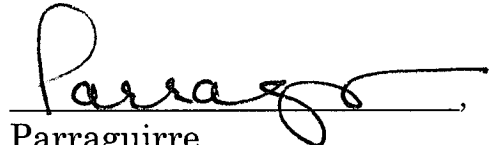
²To the extent that appellant was challenging his sentence because the State filed a notice of intent to seek habitual felon status after appellant had been already sentenced, the error was harmless. See Crutcher v. District Court, 111 Nev. 1286, 903 P.2d 823 (1995). As stated above, appellant stipulated to treatment as a habitual felon and to his convictions. Therefore, the State's remedial filing of the notice of intent was unnecessary.

waived proof of the prior convictions by entry of his guilty plea and stipulation to habitual felon criminal treatment. NRS 207.016(6); Hodges, 119 Nev. at 484-85, 78 P.3d at 70. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 _____, J.
Douglas

 _____, J.
Hardesty

 _____, J.
Parraguirre

cc: Hon. Valerie Adair, District Judge
Jontee Lamar Boyakins
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk