

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CAMERON LEE CARRICA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 69789

FILED

JUN 22 2016

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of eluding a police officer in a manner posing a danger to persons or property. Sixth Judicial District Court, Humboldt County; Robert E. Estes, Senior Judge.

First, appellant Cameron Carrica claims the district court erred by treating the Order Suspending Further Proceedings Pursuant to NRS 458.290 as a judgment of conviction. This issue lacks merit because the record reveals the district court specifically found during Carrica's probation revocation hearing that no conviction had been entered and subsequently adjudicated Carrica guilty of eluding a police officer in a manner posing a danger to persons or property.

Second, Carrica claims the district court erred by placing him on probation because NRS 458.310(2)(a) only authorizes the district court to "impose any conditions to the election of treatment that *could be* imposed as conditions of probation (emphasis added)," and NRS 176A.100 does not authorize a district court to suspend the entire sentencing proceeding to place a defendant on probation. Even assuming this issue was preserved for appeal, it lacks merit because the Nevada Supreme

Court has previously held a district court can impose probation on a defendant who has elected civil commitment pursuant to NRS 458.300. *Hanks v. State*, 105 Nev. 839, 841, 784 P.2d 5, 6 (1989).

Third, Carrica claims we should disregard the Nevada Supreme Court's decision in *Hanks* because the Legislature has not authorized district courts to enter judgments of conviction or to place defendants on probation when suspending proceedings pursuant to NRS 458.290-458.350. We refuse to disregard *Hanks* because Nevada Supreme Court precedent is binding on this court.


Fourth, Carrica claims he should be allowed to withdraw his guilty plea, the judgment of conviction should be reversed, the prosecution should be dismissed, and the matter should be sealed because he fulfilled the terms of the plea agreement before violating his probation. The plea agreement provided in relevant part that, "Both sides agree to recommend Drug Court. If accepted to Drug Court and upon successful completion of Drug Court, [Carrica] will be allowed to withdraw [his] guilty plea and the District Attorney's office will dismiss this charge." Carrica successfully completed the adult drug court program, but he did not move to withdraw his guilty plea in the court below and he has not demonstrated the State breached the plea agreement in this court. Accordingly, we conclude Carrica has not shown he is entitled to relief in this regard.


Fifth, Carrica claims the State should be sanctioned pursuant to NRAP 4(b)(5)(C) for failing to prepare the judgment of conviction within 10 days after sentencing as required by NRAP 4(b)(5)(A). Carrica suggests an appropriate sanction would be to void his judgment of conviction. However, Carrica has not alleged or demonstrated he was prejudiced by

the untimely entry of the written judgment of conviction, and we conclude the sanction he seeks is unwarranted.

Having concluded Carrica is not entitled to relief, we
ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: The Sixth Judicial District Court
Hon. Robert E. Estes, Senior Judge
Humboldt County Public Defender
Attorney General/Carson City
Humboldt County District Attorney
Humboldt County Clerk