

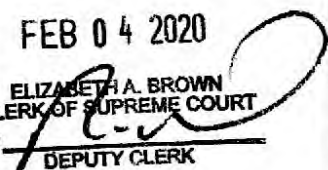
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

NATHAN LOUIS LOMAX,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78427-COA

FILED

FEB 04 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Nathan Louis Lomax appeals from a judgment of conviction entered pursuant to a guilty plea of assault with the use of a deadly weapon. Second Judicial District Court, Washoe County; Egan K. Walker, Judge.

Lomax claims the district court abused its discretion by adjudicating him a habitual criminal because his “prior convictions were remote, trivial, and stale.”

We review a district court’s habitual criminal adjudication for abuse of discretion. *LaChance v. State*, 130 Nev. 263, 276, 321 P.3d 919, 929 (2014). “A sentencing court meets its obligations so long as it [is] not operating under a misconception of the law regarding the discretionary nature of a habitual criminal adjudication.” *Id.* at 277, 321 P.3d at 929 (internal quotation marks omitted). “The court *may* dismiss a count under NRS 207.010 when the prior offenses are stale or trivial, or in other circumstances where an adjudication of habitual criminality would not serve the purposes of the statute or the interest of justice.” *Id.* (emphasis added and internal quotation marks omitted). However, “NRS 207.010 makes no special allowance for non-violent crimes or for the remoteness of convictions.” *Arajakis v. State*, 108 Nev. 976, 983, 843 P.2d 800, 805 (1992).

Here, the record demonstrates that the district court considered Lomax's five prior felony convictions, knew that habitual criminal adjudication was discretionary, and declined to dismiss the habitual criminal count. Given this record, we conclude the district court did not abuse its discretion by adjudicating Lomax a habitual criminal. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Egan K. Walker, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk