

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARIO ORTIZ-GONZALEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 89218-COA

FILED

MAY 06 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Mario Ortiz-Gonzalez appeals the judgment of conviction, entered pursuant to a guilty plea, of felony driving under the influence with one or more prior felony DUI convictions. Fourth Judicial District Court, Elko County; Mason E. Simons, Judge.

Ortiz-Gonzalez argues the district court erred in relying on his 2016 felony DUI conviction to enhance the instant sentence. Pointing to a portion of the presentence investigation report that was stricken because it contained inaccurate information, Ortiz-Gonzalez suggests that, because he does not speak English, his prior 2016 conviction may not be constitutionally adequate to enhance the instant sentence. Further, he asserts his past guilty plea proceedings failed to inform him about the immigration consequences of those pleas.

To use a prior felony conviction for enhancement purposes, the State must present prima facie evidence of the existence of the prior conviction. *Dressler v. State*, 107 Nev. 686, 697, 819 P.2d 1288, 1295 (1991). If the record of the prior conviction, on its face, raises a presumption of constitutional infirmity, then the State must prove by a preponderance of the evidence that the prior conviction is constitutionally valid. *Id.* at 697-

98, 819 P.2d at 1295-96. However, if the record does not, on its face, raise a presumption of constitutional infirmity, then the conviction is afforded a presumption of regularity. *Id.* at 698, 819 P.2d at 1296. To overcome the presumption of regularity, the defendant must establish through a preponderance of the evidence that the prior conviction is constitutionally infirm. *Id.*

Here, the State made a sufficient showing establishing the existence of the 2016 felony DUI conviction. The record of that conviction does not, on its face, raise a presumption of constitutional infirmity. Notably, the documents supporting the prior conviction show Ortiz-Gonzalez was represented by counsel and assisted by an interpreter during those proceedings. Further, the documents supporting the prior conviction show Ortiz-Gonzalez acknowledged the potential immigration consequences of the conviction and his counsel acknowledged that she discussed those consequences with him as well. Therefore, Ortiz-Gonzalez did not demonstrate the district court abused its discretion in relying on the prior conviction. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Mason E. Simons, District Judge
Elko County Public Defender
Attorney General/Carson City
Elko County District Attorney
Elko County Clerk