

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARC LADEL JONES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 88617

FILED

NOV 20 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

*ORDER AFFIRMING IN PART, REVERSING IN PART, AND
REMANDING*

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of possession of a firearm by a prohibited person, and, pursuant to a guilty plea, of possession of a Schedule I or II controlled substance, less than 14 grams, first or second offense. Second Judicial District Court, Washoe County; Scott N. Freeman, Judge.

Appellant Marc Ladel Jones challenges the habitual criminal adjudication under NRS 207.010(1)(a). Jones contends that the district court erred by basing its determination on stale and mostly nonviolent prior convictions. This court reviews a district court's adjudication of a defendant as a habitual criminal for an abuse of discretion. *Clark v. State*, 109 Nev. 426, 428, 851 P.2d 426, 427 (1993). We consider the record as a whole and evaluate whether the sentencing court "weigh[ed] the appropriate factors for and against [application of] the habitual criminal statute." *O'Neill v. State*, 123 Nev. 9, 16, 153 P.3d 38, 42-43 (2007). The habitual criminal statute does not exclude remote or nonviolent convictions; rather, these are considerations within the district court's discretion. *Arajakis v. State*, 108 Nev. 976, 983, 843 P.2d 800, 805 (1992).

Here, the State filed notice of seven prior felony convictions. Jones did not object to the use of these convictions for habitual criminal adjudication. While two of the convictions were more than 20 years old, they were part of a consistent pattern of criminal activity spanning nearly three decades and were relevant to the likelihood of continued recidivism. *See Tanksley v. State*, 113 Nev. 997, 1004, 946 P.2d 148, 152 (1997) (“The purpose of the habitual criminal statute is to increase sanctions for the recidivist and to discourage repeat offenders.”); *Sessions v. State*, 106 Nev. 186, 191, 789 P.2d 1242, 1245 (1990) (observing that the habitual criminal statute exists to “deal determinedly with career criminals”). And while five of the convictions were nonviolent, this does not make them trivial. Jones repeatedly engaged in theft and fraud that victimized members of the community, including vehicle theft, commercial burglary, and attempting to obtain money by false pretenses. Nonetheless, the district court weighed the nature of Jones’s criminal history in its determination. The court observed that Jones had enough prior convictions to qualify for the “big” habitual under NRS 207.010(1)(b) but found that the “small” habitual was just and proper given the predominance of property crimes and the relationship between Jones’s offenses and his history of substance use. We therefore conclude that the district court properly exercised its discretion in adjudicating Jones as a habitual criminal.

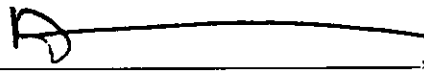
Jones also argues that the judgment of conviction erroneously imposed a habitual criminal sentence for possession of a controlled substance (count 2). The State agrees with Jones that under NRS 207.010(2), the sentence for that offense cannot be enhanced based on a habitual criminal adjudication.

During the sentencing hearing, the district court clearly pronounced its intent to adjudicate Jones as a habitual criminal with a corresponding prison sentence of eight to twenty years. The written judgment of conviction attaches that adjudication and sentence to count 2—possession of a controlled substance. This may be a clerical error if the district court intended to apply that adjudication and sentence to the other count. The district court's oral pronouncement is not entirely clear on that point. If it was a clerical error, the district court may correct it by amending the judgment of conviction to impose the habitual criminal adjudication and sentence upon the only count to which it may be legally applied, count 1—possession of a firearm by a prohibited person. *See* NRS 176.565 (allowing the district court to correct a clerical error at any time).

Additionally, Jones was convicted of two offenses, but the district court orally pronounced only one sentence—eight to twenty years under the habitual criminal statute. The written judgment, however, includes separate sentences for each offense, as required by Nevada law. *See* NRS 176.033(2); *Powell v. State*, 114 Nev. 258, 264 n.9, 934 P.2d 224, 228 n.9 (1997). A district court may modify an oral pronouncement of a defendant's sentence in a subsequent written judgment. *See Bradley v. State*, 109 Nev. 1090, 1094, 864 P.2d 1272, 1274-75 (1993). Here, however, there was no oral pronouncement to be modified. *See Robertson v. State*, 109 Nev. 1086, 1088 n.1, 863 P.2d 1040, 1041 n.1 (1993) (clarifying that a district court may correct a judgment of conviction to “make a record speak the truth concerning acts done,” but not to “supply omitted action” (internal quotation marks omitted)), *overruled on other grounds by Krauss v. State*, 116 Nev. 307, 310, 998 P.2d 163, 165 (2000).

Considering the error in sentencing Jones as a habitual criminal on count 2 and the failure to orally pronounce a sentence for each offense, we reverse the judgment of conviction as to the sentences imposed and remand for further proceedings. Upon remand, the district court may correct any clerical errors in the judgment of conviction but otherwise must conduct a new sentencing hearing and pronounce sentences for both counts. Accordingly, we

ORDER the judgment of conviction AFFIRMED in part and REVERSED IN PART, and REMAND this matter for further proceedings consistent with this order.


_____, C.J.
Herndon


_____, J.
Bell


_____, J.
Stiglich

cc: Hon. Scott N. Freeman, District Judge
Oldenburg Law Office
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk