

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID CULLEN THIESSEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 90717-COA

FILED

DEC 16 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

David Cullen Thiessen appeals from a judgment of conviction, entered pursuant to a guilty plea, of driver evade, elude, or fail to stop on signal of a peace officer, damaging the property of another. Second Judicial District Court, Washoe County; Kathleen A. Sigurdson, Judge.

First, Thiessen argues the district court erred by not dismissing the notice of intent to seek habitual criminal treatment as untimely. The State did not include a count of habitual criminal in either the original information or in the amended information. Instead, the State filed the notice of intent to seek habitual criminal treatment in a separate filing, eight days prior to sentencing. Thiessen objected and moved to strike the notice, arguing the State was required to file the notice at least 15 days prior to sentencing pursuant to NRS 207.016(2). The State argues Thiessen had sufficient advanced notice that it was going to seek habitual criminal adjudication and Thiessen refused a continuance of the sentencing hearing.

In the guilty plea agreement, the parties agreed that the State would seek habitual criminal treatment. *Cf.* NRS 207.016(2) (providing a separately filed notice of intent to seek habitual criminal treatment must be filed not less than two days before the start of trial, unless the parties

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agree otherwise). Further, when Thiessen objected to the notice at sentencing, the district court offered a continuance, which would then allow for the full 15 days between notice and sentencing, but Thiessen rejected that continuance. *Cf. Chadwick v. State*, 140 Nev., Adv. Op. 10, 546 P.3d 215, 227 (Ct. App. 2024) (“Under the invited error doctrine, a party will not be heard to complain on appeal of errors which he himself induced or provoked the court or the opposite party to commit.” (internal quotation marks omitted)). “[T]he clear purpose of [NRS 207.010(3)] is to ensure that the defendant has notice that the State will request habitual criminal adjudication.” *LaChance v. State*, 130 Nev. 263, 276, 321 P.3d 919, 928 (2014) (citing NRS 207.016(2)). Here, the record is clear that Thiessen had knowledge of the State’s intent to seek habitual criminal treatment because: (1) the State filed a notice of certified copies of prior convictions before Thiessen entered his guilty plea; (2) the plea agreement provided the State would seek habitual criminal treatment and cap its sentencing recommendation at 5 to 12.5 years; and (3) Thiessen and his counsel acknowledged the State would be seeking habitual criminal treatment at the change of plea hearing and in his sentencing memorandum.¹ Further, we note Thiessen successfully argued two of his prior convictions were stale. Thus, we conclude Thiessen is not entitled to relief on this claim.²

¹We note the State ultimately filed a notice of intent in this matter and thus the facts are distinguishable from *Grey v. State*, 124 Nev. 110, 123-23, 178 P.3d 154, 163-64 (2008) (concluding the district court lacked jurisdiction to sentence the defendant as a habitual criminal where the State did not file the notice of intent even where the defendant otherwise had notice).

²To the extent Thiessen argues the State did not demonstrate good cause for the late filing, this claim was not argued below and Thiessen does

Second, Thiessen argues the district court abused its discretion by adjudicating him a habitual criminal because his convictions were stale and nonviolent. The district court has broad discretion when sentencing a defendant as a habitual criminal and “[a] sentencing court meets its obligations so long as it was 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). Further, “NRS 207.010 makes no special allowance for non-violent crimes or the remoteness of convictions.” *Arajakis v. State*, 108 Nev. 976, 983, 843 P.2d 800, 805 (1992).

Here, the district court considered each prior conviction and found two convictions from 1995 and 1998 were stale. The district court considered the remaining five convictions and determined Thiessen qualified for adjudication as a habitual criminal. The district court demonstrated that it understood the discretionary nature of the habitual criminal adjudication and determined that, based on his prior criminal history and the facts of this case, Thiessen should be sentenced as a habitual

not argue plain error on appeal. Consequently, Thiessen forfeited this argument, and we decline to review it on appeal. *See Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48 (2018); *see also Miller v. State*, 121 Nev. 92, 99, 110 P.3d 53, 58 (2005) (stating it is the appellant’s burden to demonstrate plain error); *see also State v. Eighth Jud. Dist. Ct. (Doane)*, 138 Nev., Adv. Op. 90, 521 P.3d 1215, 1221 (2022) (recognizing the Nevada appellate courts “follow the principle of party presentation” and thus “rely on the parties to frame the issues for decisions and assign to courts the role of neutral arbiter of matters the parties present” (quoting *Greenlaw v. United States*, 554 U.S. 237, 243 (2008))); *Senjah v. Alhulaibi*, 137 Nev. 632, 633-34, 497 P.3d 618, 619 (2021) (“We will not supply an argument on a party’s behalf but review only the issues the parties present.”).

criminal. Therefore, we conclude the district court did not abuse its discretion. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Kathleen A. Sigurdson, District Judge
Attorney General/Carson City
Washoe County District Attorney
Washoe County Public Defender
Washoe District Court Clerk