

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT R. PAULSEN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 42341

FILED

JUN 14 2004

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richard*  
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of being an ex-felon in possession of a firearm. The district court adjudicated appellant Robert R. Paulsen as a habitual criminal under NRS 207.010(1)(a), the small habitual criminal statute, and sentenced him to serve a prison term of 5 to 20 years.

Although Paulsen does not dispute that he was eligible for the sentence actually imposed by the district court, Paulsen argues that the district court erred in considering the imposition of the large habitual criminal statute set forth in NRS 207.010(1)(b) because his prior Florida felony convictions arose out of the same transaction.<sup>1</sup> In support of his contention, Paulsen cites to Rezin v. State, which holds that "where two or more convictions grow out of the same act, transaction or occurrence, and

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<sup>1</sup>Paulsen argues that he has standing to raise this issue even though the district court did not adjudicate him as a large habitual criminal under NRS 207.010(1)(b) because the Division of Parole and Probation recommended that sentence and, therefore, the district court's decision to impose the small habitual criminal statute may have been "a compromise between the [sentencing] recommendation by the [Division] and Paulsen's recommendation." We note, however, that Paulsen has failed to show that the sentence imposed was based on such a compromise.

are prosecuted in the same indictment or information, those several convictions may be utilized only as a single 'prior conviction' for purposes of applying the habitual criminal statute."<sup>2</sup> We conclude that the district court did not abuse its discretion in considering whether Paulsen should be adjudicated under NRS 207.010(1)(b), the large habitual criminal statute.

At the sentencing hearing, Paulsen's counsel conceded that Paulsen had three prior felony convictions in arguing: "the State has made a big ado about his felony convictions, and I'm not here to represent he's a model citizen. I mean certainly he does have the requisite three felonies, but they're nonviolent in nature."<sup>3</sup> Nonetheless, even if Paulsen did not concede the issue, we conclude that the district court properly considered the 1998 Florida convictions as two separate felony convictions because they were not part of the same case, transaction or occurrence. According to the presentence investigation report,<sup>4</sup> Paulsen was charged in two separate cases in Florida: (1) for leaving the scene of an accident causing injury, for which he was arrested on May 5, 1998; and (2) for

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<sup>2</sup>95 Nev. 461, 462, 596 P.2d 226, 227 (1979); see also Halbower v. State, 96 Nev. 210, 211-12, 606 P.2d 536, 537 (1980).

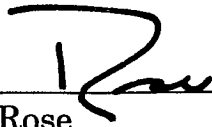
<sup>3</sup>See Hodges v. State, 119 Nev. \_\_\_, \_\_\_, 78 P.3d 67, 70 (2003) (holding that a defendant may stipulate to prior convictions at sentencing).

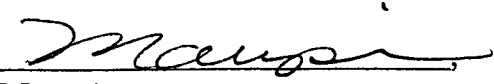
<sup>4</sup>We note that Paulsen has not included copies of the judgments of conviction in the appendix. We emphasize that it is the responsibility of counsel to provide documents necessary to resolve an appeal. See NRAP 28(e), 30(b); Greene v. State, 96 Nev. 555, 558, 612 P.2d 686, 688 (1980). We have therefore relied on the description of the prior convictions set forth in the presentence investigation report as neither party questions the accuracy of those descriptions.

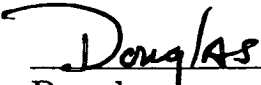
kidnapping a minor, interference with child custody, for which he was arrested on September 14, 1998. Accordingly, the district court did not err with regard to the habitual criminal adjudication.

Having considered Paulsen's contention and concluded that it lacks merit, we

ORDER the judgment of conviction AFFIRMED.

 \_\_\_\_\_, J.  
Rose

 \_\_\_\_\_, J.  
Maupin

 \_\_\_\_\_, J.  
Douglas

cc: Hon. Michael A. Cherry, District Judge  
Clark County Public Defender  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk