

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN BRADLEY HODGES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 62074

FILED

SEP 18 2013

TRAGIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angelina*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of grand larceny and burglary. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

First, appellant Steven Bradley Hodges contends that the district court abused its discretion by denying his motion for substitute counsel. The entry of a guilty plea generally waives any right to appeal from events occurring prior to the entry of the plea. *See Webb v. State*, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975); *see also Tollett v. Henderson*, 411 U.S. 258, 267 (1973). Moreover, there is no indication in the record that Hodges preserved the right to challenge the district court's denial of his motion on appeal. *See NRS 174.035(3)*. Therefore, we decline to consider the matter.

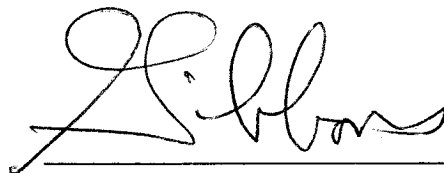
Second, Hodges contends that the district court abused its discretion by adjudicating him as a habitual criminal and imposing a disproportionate sentence which shocks the conscience. We disagree.

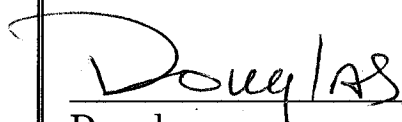
The district court has broad discretion to dismiss a count of habitual criminality. *See* NRS 207.010(2); *O'Neill v. State*, 123 Nev. 9, 12, 153 P.3d 38, 40 (2007). Our review of the record reveals that the district court understood its sentencing authority and considered the appropriate factors prior to making its determination to adjudicate Hodges as a habitual criminal. *See Hughes v. State*, 116 Nev. 327, 333, 996 P.2d 890, 893 (2000); *see also* NRS 207.016(5); *O'Neill*, 123 Nev. at 15-16, 153 P.3d at 42-43 (once a district court declines to exercise its discretion to dismiss an allegation of habitual criminality, the only factual findings the judge may then make must relate solely to the existence and validity of the prior convictions). We conclude that the district court did not abuse its discretion by adjudicating Hodges as a habitual criminal.

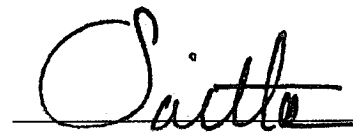
Additionally, Hodges has not alleged that the district court relied solely on impalpable or highly suspect evidence or demonstrated that the sentencing statute is unconstitutional. *See Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 489-90 (2009). Hodges' prison term of 10-25 years falls within the parameters provided by the relevant statute, *see* NRS 207.010(1)(b)(3), and is not so unreasonably disproportionate to the gravity of the offense and his history of recidivism as to shock the

conscience, *Culverson v. State*, 95 Nev. 433, 435, 596 P.2d 220, 221-22 (1979); see also *Ewing v. California*, 538 U.S. 11, 29 (2003) (plurality opinion); *Harmelin v. Michigan*, 501 U.S. 957, 1000-01 (1991) (plurality opinion). We conclude that the district court did not abuse its discretion at sentencing. *Parrish v. State*, 116 Nev. 982, 989, 12 P.3d 953, 957 (2000). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

cc: Hon. Elliott Sattler, District Judge
Janet S. Bessemer
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk