

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID ALAN GOFF,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 75331-COA

FILED

MAR 14 2019

ELI BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

David Alan Goff appeals from a judgment of conviction, entered pursuant to a jury verdict of attempted robbery, burglary, battery with intent to commit robbery, and conspiracy to commit robbery. Seventh Judicial District Court, White Pine County; Steve L. Dobrescu, Judge.


Goff argues the district court abused its discretion at sentencing by sentencing him pursuant to the small habitual criminal statute for his conviction of battery with intent to commit robbery. Specifically, he claims the district court did not appropriately weigh the factors before sentencing him as a habitual criminal. He claims the district court failed to consider: (1) the fact his criminal history was minimal, (2) his mitigation evidence, (3) the lack of a victim impact statement, and (4) the interests of justice.

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 the district court understood its sentencing authority and considered the appropriate factors prior to making its determination not to dismiss the count. *See Hughes v. State*, 116 Nev. 327, 333, 996 P.2d 890, 893 (2000) ("Nevada law requires a sentencing court to exercise its discretion and weigh the appropriate factors

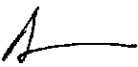
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for and against the habitual criminal statute before adjudicating a person as a habitual criminal.”). The district court considered Goff’s violent prior convictions, the violence involved in the instant conviction, Goff’s drug and mental health issues, the impact to the victim as testified to at the trial, and the fact Goff’s codefendants received lesser sentences. Because the record indicates the district court properly exercised its discretion in adjudicating Goff a habitual criminal, we conclude the district court did not abuse its discretion at sentencing, and we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Tao


_____, J.
Gibbons


_____, J.
Bulla

cc: Hon. Steve L. Dobrescu, District Judge
White Pine County Public Defender
Attorney General/Carson City
White Pine County District Attorney
White Pine County Clerk