

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL JOSEPH GEIGER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68364

FILED

APR 20 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a second corrected judgment of conviction, pursuant to a jury verdict, of two counts of possession of a stolen motor vehicle. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.


Appellant Michael Geiger claims the district court abused its discretion by sentencing him as a habitual criminal because, although he had nine prior convictions, they were all for non-violent offenses and all but two of the prior convictions were more than 20 years old. 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). While Geiger likens his prior convictions to those in *Sessions v. State*, 106 Nev. 186, 789 P.2d 1242 (1990) (concluding the district court's adjudication of defendant as a habitual criminal was an abuse of discretion as the prior convictions ranged from 23 to 30 years old and were for nonviolent crimes), Geiger's case is distinguishable. The district court acknowledged that Geiger's prior convictions were for non-violent offenses, but found habitual criminal adjudication was warranted because Geiger continues to engage in criminal conduct. Specifically, the court noted that while he was out on these charges Geiger committed two

more offenses. Additionally, the court noted Geiger had previously been adjudicated a habitual criminal and since that time he had committed three felonies. Our review of the record reveals the district court understood its sentencing authority, and we conclude the district court did not abuse its discretion by adjudicating Geiger a habitual criminal for count 1 and imposing a sentence of life with the possibility of parole after ten years.¹ See *Hughes v. State*, 116 Nev. 327, 333, 996 P.2d 890, 893 (2000); *Arajakis v. State*, 108 Nev. 976, 983, 843 P.2d 800, 805 (1992) (“NRS 207.010 makes no special allowance for non-violent crimes or for the remoteness of convictions.”); see also NRS 207.010(1)(b)(2). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Connie J. Steinheimer, District Judge
Washoe County Public Defender
Richard F. Cornell
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

¹Geiger was sentenced to a concurrent term of 24-60 months for count 2, and he does not challenge the sentence for that count.