

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ARON TREVON POWE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 81435-COA

FILED

MAR 25 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *Elizabeth A. Brown*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Aron Trevon Powe appeals from a judgment of conviction, pursuant to a guilty plea, of driving under the influence of a combination of alcohol and a controlled or prohibited substance. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Powe argues that the district court erroneously enhanced his driving under the influence (DUI) offense to a felony based on an invalid prior misdemeanor conviction.¹ Powe argues the documents provided by the State to prove a prior misdemeanor DUI conviction out of California did not demonstrate a valid waiver of Powe's right to counsel or that the California court respected the spirit of constitutional principles when it accepted Powe's no contest plea. "If the State seeks to use prior

¹He does not challenge the validity of the other prior misdemeanor conviction.

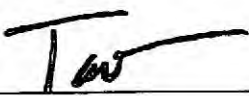
misdemeanor convictions to enhance a current offense to a felony, it must also make an affirmative showing of the constitutional validity of the prior convictions.” *Hobbs v. State*, 127 Nev. 234, 241, 251 P.3d 177, 181 (2011). “This includes demonstrating ‘either that counsel was present [during the prior misdemeanor proceedings] or that the right to counsel was validly waived, and that the spirit of constitutional principles was respected in the prior misdemeanor proceedings.’” *Id.* (alteration in original) (quoting *Dressler v. State*, 107 Nev. 686, 697, 819 P.2d 1288, 1295 (1991)).

The district court concluded the certified documents submitted by the State were legally sufficient to demonstrate Powe’s prior California DUI conviction. Moreover, the district court reviewed the documents and concluded, based on the totality of the circumstances, that the California court respected the spirit of constitutional principles and Powe validly waived his right to counsel prior to entering his no contest plea. The district court noted the documents contained a description of the charges, a progression of punishments for subsequent offenses, and administrative ramifications. The district court also noted the documents included an itemization of seven affirmative rights Powe acknowledged and gave up by signing “yes” twice to each right—once to acknowledge he understood the right and once to demonstrate he waived the right. The district court also noted Powe wrote “yes” to the fact he represented himself and waived his right to an attorney and handwrote “yes” fifteen separate times before

signing his no contest plea. Finally, the district court noted the minute order, which bore the name of the superior court judge who presided over Powe's case, indicated the court found Powe's plea to be voluntary and supported by a factual basis. Because the record before the district court demonstrated Powe waived his right to counsel and the spirit of constitutional principles was respected in Powe's misdemeanor DUI proceedings, we affirm the decision of the district court. Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

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