

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY NICHOLAS VIGNOLI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46298

FILED

MAY 22 2006

JANETT M. BLUM
CLERK OF SUPREME COURT
[Signature]
DEPUTY CLERK

ORDER OF AFFIRMANCE AND LIMITED REMAND TO
CORRECT THE JUDGMENT OF CONVICTION

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of trafficking in a controlled substance, and of one count of conspiracy to sell a controlled substance. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Appellant Anthony Vignoli was sentenced to a prison term of 10-25 years for trafficking in a controlled substance and a concurrent term of 12-30 months for conspiracy to sell a controlled substance.

Vignoli's sole contention on appeal is that the district court erred by admitting the preliminary hearing testimony of a witness who was unavailable at trial. We disagree.

Specifically, Vignoli contends the district court abused its discretion by admitting Justine Webb's preliminary hearing testimony that Vignoli sold methamphetamine. At the preliminary hearing Vignoli was represented by counsel who cross-examined Webb.

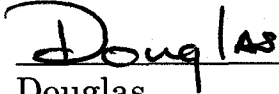
Webb did not appear at trial and the district court found that the State made reasonable and good faith efforts to locate her. Prior to the trial, Webb agreed to testify truthfully for the State, and in exchange, was released on her own recognizance.


Even assuming it was error to admit the testimony, it would have been harmless error as there was overwhelming evidence of Vignoli's guilt.¹ Vignoli testified he was guilty. His co-defendants testified he was guilty and the police testified they found the methamphetamine next to Vignoli.

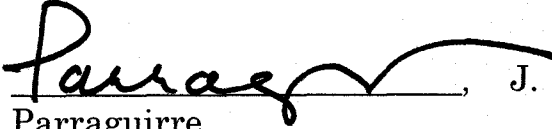
Having considered Vignoli's contention, and concluded that it is without merit, we affirm the judgment of conviction. Our review of the judgment of conviction, however, reveals a clerical error. The judgment of conviction incorrectly states that Vignoli was convicted pursuant to a guilty plea. The judgment of conviction should have stated that he was convicted pursuant to a jury verdict. We therefore conclude that this matter should be remanded to the district court for correction of the judgment of conviction. Accordingly, we

¹See Allred v. State, 120 Nev. 410, 415, 92 P.3d 1246, 1250 (2004) (quoting Neder v. United States, 527 U.S. 1, 18 (1999)) ("An error is harmless when it is 'clear beyond a reasonable doubt that a rational jury would have found the defendant guilty absent the error.'").

ORDER the judgment of the district court AFFIRMED and REMAND this matter to the district court for the limited purpose of correcting the judgment of conviction.

 _____, J.
Douglas

 _____, J.
Becker

 _____, J.
Parraguirre

cc: Hon. Connie J. Steinheimer, District Judge
Michael V. Roth
Attorney General George Chanos/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk