

IN THE SUPREME COURT OF THE STATE OF NEVADA

RUBEN ALEXANDER CRUZ,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 35108

FILED

SEP 27 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Ribart*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of domestic violence, a felony under NRS 200.485. The district court sentenced appellant to a prison term of 12 to 32 months.

Appellant's sole contention on appeal is that the district court erred in sentencing him under NRS 200.485. Appellant's argument rests entirely on the contention that the Legislature did not intend for convictions for battery constituting domestic violence occurring prior to January 1, 1998, to be used as a penalty enhancement under NRS 200.485. Appellant contends that had the Legislature intended otherwise, it would have provided an earlier start date as it did in the 1983 amendments to the DUI enhancement law, NRS 484.3792.

This court has recently addressed and rejected this precise argument in *English v. State*, 116 Nev. ___, ___ P.3d ___ (Adv. Op. No. 89, August 24, 2000). In English, we held the following:

In amending the DUI enhancement law in 1983, the legislature extended from five to seven years the period from which prior DUI convictions could be considered for enhancement purposes. By providing a starting date in section 35 of the DUI bill the legislature merely sought to avoid any confusion created by the extension of time from five to seven years. By contrast, in enacting the domestic

violence enhancement law, the legislature did not need to provide a starting date to avoid confusion. Since the domestic violence enhancement law took effect on January 1, 1998, it necessarily follows that January 1, 1991, is the starting date from which prior convictions can be used for enhancement purposes.

Indeed, by providing a starting date seven years before the amendments to the DUI enhancement law took effect, the legislature clearly revealed its intention that DUI convictions occurring prior to the effective date of that law be considered for enhancement purposes. Because the domestic violence enhancement law was modeled after the DUI bill, domestic violence convictions which occurred prior to the effective date of the domestic violence enhancement law must similarly be considered for enhancement purposes.

116 Nev. at ___, ___ P.3d at ___ (footnotes omitted).

Additionally, we held that

[t]his law places repeat offenders on notice that they will be charged with a felony if their next charge of domestic battery constitutes a third offense. It would be unreasonable to interpret the law in a way that would allow current habitual domestic batterers to commit two more offenses after January 1, 1998, before their next conviction could be enhanced to a felony under NRS 200.485(1)(c).

Id. at ___, ___ P.3d at ___. Therefore, we conclude appellant's argument is without merit.

Having considered appellant's contention and concluded it is without merit, we affirm appellant's conviction.


It is so ORDERED.



Shearing J.



Agosti J.



Leavitt J.

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