

IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 35839

SCOTT ANTHONY KANVICK,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

JUL 26 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of felony driving while having 0.10 percent or more by weight of alcohol in the blood in violation of NRS 484.379 and NRS 484.3792(1)(c). The district court sentenced appellant to 12 to 36 months in the Nevada State Prison and a \$2,000.00 fine.

Appellant contends that the district court erred in permitting the State to amend the information at sentencing. In particular, appellant contends that the State amended the information at sentencing to allege an entirely different prior conviction and that the district court erred in permitting the amendment and considering the prior conviction for enhancement purposes. See Phipps v. State, 111 Nev. 1276, 903 P.2d 820 (1995). We conclude that appellant's contention lacks merit.

Based on our review of the record on appeal, we conclude that the district court did not err in finding that the State had made an error in the description of the prior conviction. Cf. Dressler v. State, 107 Nev. 686, 689, 819 P.2d 1288, 1289-90 (1991). Unlike Phipps, in this case the State did not offer evidence of an entirely different prior conviction than that alleged in the information. Moreover,

appellant has failed to show that the inaccuracy in describing the prior conviction prejudiced him. Accordingly, the State was not precluded from amending the information to correct the error and using the prior conviction in seeking an enhancement of appellant's punishment. See id. We further conclude that although the district court should have memorialized the oral amendment by requiring the State to file an amended information or amending the information by interlineation, any error in this respect was technical and did not affect appellant's substantial rights. See NRS 178.598.

Having considered appellant's contentions and concluded that they lack merit, we

ORDER this appeal dismissed.

Maupin, J.
Maupin

Shearing, J.
Shearing

Becker, J.
Becker

cc: Hon. Steven R. Kosach, District Judge
Attorney General
Washoe County District Attorney
Washoe County Public Defender
Washoe County Clerk