


IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL ALLEN MULLEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63750

FILED

APR 10 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

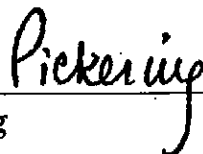
This is an appeal from a judgment of conviction, pursuant to a guilty plea, of felony driving under the influence of an intoxicating liquor (DUI). Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.


Appellant Michael Allen Mullen was charged with felony DUI in this case because he had been convicted of felony DUI in 2001. See NRS 484C.410(1)(a), (2). Mullen moved to preclude the State from using the 2001 conviction to enhance the instant charge because NRS 484C.410 was enacted after he pleaded guilty in that case and he detrimentally relied upon that guilty plea agreement, which did not state that the conviction could be used as an enhancement in the future. The district court denied the motion and Mullen pleaded guilty, reserving the right to appeal the district court's determination. See NRS 174.035(3).

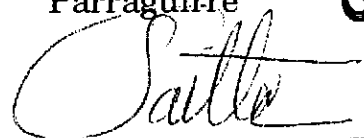
Mullen contends that the district court erred by denying his motion. We disagree. Although NRS 484C.410 was enacted after Mullen pleaded guilty to the prior felony DUI, on the day he elected to commit the instant offense "reference to the statute would have indicated precisely the penalty he risked." *Dixon v. State*, 103 Nev. 272, 274, 737 P.2d 1162, 1164

(1987). The prior guilty plea agreement is not invalid merely because Mullen was not informed that the conviction could be used as an enhancement in the future, *see id.* at 274 n.2, 737 P.2d at 1164 n.2, and there was no detrimental reliance because nothing in that agreement limited the use of the conviction for enhancement purposes, *see Speer v. State*, 116 Nev. 677, 680, 5 P.3d 1063, 1065 (2000). We conclude that the district court did not err, and we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Pickering


_____, J.
Parraguirre


_____, J.
Saitta

cc: Hon. Douglas W. Herndon, District Judge
William B. Terry, Chartered
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk