IN THE SUPREME COURT OF THE STATE OF NEVADA

JEFFREY ROBERT SCOVILLE,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 38312

FILED

DEC 06 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of felony driving under the influence and one count of failure to appear. The district court sentenced appellant to a prison term of 6 years for DUI, and a concurrent prison term of 12 to 30 months for failure to appear. The district court also imposed a fine in the amount of $2,000.00.

Appellant contends that the district court erred by denying his pre-sentence motion to withdraw his guilty plea. Specifically, appellant argues that he was not canvassed thoroughly and that he did not sign a guilty plea agreement. The record shows, however, that at the time appellant entered his guilty plea, he was canvassed thoroughly by the district court, and appellant's argument is therefore belied by the record. Accordingly, we conclude that despite the fact that appellant refused, after the arraignment, to sign the guilty plea agreement, such error is not reversible.[1] Moreover, we conclude that under the totality of the circumstances, appellant's plea was valid.

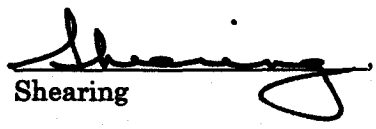
Appellant also contends that he should be resentenced for DUI because the district court mistakenly believed that appellant had 4 prior DUI's, when he actually only had 3 prior convictions for DUI. However, "the record does not demonstrate prejudice resulting from consideration of information or accusations founded on facts supported only by impalpable

[1]See Ochoa-Lopez v. Warden, 116 Nev. 448, 451, 997 P.2d 136, 138 (2000).

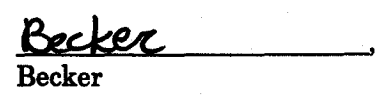
or highly suspect evidence."[2] In particular, we note that in addition to his previous DUI convictions, the district court noted at sentencing that appellant had been arrested for and convicted of public intoxication subsequent to the instant DUI, and that appellant had previously undergone a one-year inpatient program for alcohol abuse. The district court then stated that it wanted to make sure that appellant was not driving for a significant period of time. In light of the foregoing, we conclude that the district court's sentence was not based solely on the number of appellant's previous convictions for DUI.

Having considered appellant's contentions and concluded that they are without merit, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Shearing


_____, J.
Rose


_____, J.
Becker

cc: Hon. John P. Davis, District Judge
Attorney General/Carson City
Nye County District Attorney/Tonopah
Harold Kuehn
Nye County Clerk

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[2]Silks v. State, 92 Nev. 91, 94, 545 P.2d 1159, 1161 (1976).