

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAURA ELAINE CROSLEY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 40859

FILED

AUG 20 2003

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of third-offense driving under the influence. The district court sentenced appellant to a prison term of 12 to 30 months, and ordered appellant to pay a fine in the amount of \$2,000.00.

Appellant first argues that a mistrial should have been granted because defense counsel had the wrong jury list during voir dire. Appellant concedes, however, that defense counsel later found the correct list and that the correct list had been delivered to defense counsel's office one week prior to the commencement of the trial. Appellant cites no authority for the proposition that a mistrial is warranted where counsel has an incorrect jury list during voir dire. Moreover, appellant has failed to show that she was prejudiced by the district court's denial of a mistrial and any error was therefore harmless. "As has been said heretofore by this court, errors which do not actually prejudice or injure the defendant

do not justify a reversal."<sup>1</sup> We therefore conclude that appellant's argument is without merit.

Appellant also argues that a mistrial should have been granted because a prospective juror stated that his father had been convicted of three DUIs and gone to prison. Appellant argues that the juror's statement alerted other potential jurors that multiple DUIs are sometimes necessary for a felony conviction.

Initially, we note that "it is within the sound discretion of the trial court to determine whether a mistrial is warranted. Absent a clear showing of abuse of discretion, the trial court's determination will not be disturbed on appeal."<sup>2</sup>

In the instant case, the potential juror in question was not ultimately selected as a juror, and there is nothing in the record to suggest that the other potential jurors inferred from his remarks that appellant had previously been convicted of DUI. We therefore conclude that the district court did not clearly abuse its discretion by denying the motion for a mistrial.

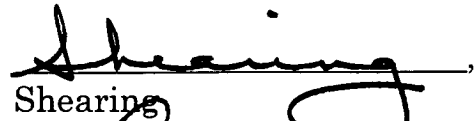
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<sup>1</sup>State v. Nelson, 36 Nev. 403, 411, 136 P. 377, 381 (1913).


<sup>2</sup>Geiger v. State, 112 Nev. 938, 942, 920 P.2d 993, 995 (1996) (citations omitted).

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

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Shearing

  
\_\_\_\_\_, J.  
Leavitt

  
\_\_\_\_\_, J.  
Becker

cc: Hon. Andrew J. Puccinelli, District Judge  
Elko County Public Defender  
Attorney General Brian Sandoval/Carson City  
Elko County District Attorney  
Elko County Clerk