

No. 04-301

IN THE SUPREME COURT OF THE STATE OF MONTANA

2004 MT 315N

STATE OF MONTANA,

Plaintiff and Respondent,

v.

DAVID L. HOMEGUN,

Defendant and Appellant.

APPEAL FROM: District Court of the Ninth Judicial District,
In and for the County of Glacier, Cause No. DR 03-05
The Honorable Marc G. Buyske, Judge presiding.

COUNSEL OF RECORD:

For Appellant:

Terryl T. Matt, Attorney at Law, Cut Bank, Montana

For Respondent:

Honorable Mike McGrath, Montana Attorney General, Mark W. Mattioli,
Assistant Attorney General, Helena Montana; Larry Epstein, Glacier County
Attorney, Cut Bank, Montana

Submitted on Briefs: October 19, 2004

Decided: November 12, 2004

Filed:

Clerk

Justice James C. Nelson delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(d)(v), Montana Supreme Court 1996 Internal Operating Rules, as amended in 2003, the following memorandum decision shall not be cited as precedent. Its case title, Supreme Court cause number and disposition shall be included in this Court’s quarterly list published in the Pacific Reporter and Montana Reports.

¶2 David L. Homegun (Homegun) appeals the judgment of the Ninth Judicial District Court, Glacier County, denying his motion to dismiss his felony DUI charge on the basis that the two previous DUI convictions used to enhance his charge were constitutionally infirm. The District Court determined, in pertinent part, that the “quality and quantum of evidence” presented by Homegun was insufficient to rebut “the presumption of regularity of the June 1990 and March 1992 Justice Court proceedings.”

¶3 After careful review of the briefs, the record, and the District Court’s denial of his Motion to Dismiss, we are satisfied that insufficient evidence exists to support Homegun’s argument that his prior pleas were not knowing and intelligent. We hold that the District Court’s denial of Homegun’s Motion to Dismiss was correct and that the appeal is without merit.

¶4 Therefore, the District Court’s decision is affirmed.

/S/ JAMES C. NELSON

We Concur:

/S/ KARLA M. GRAY
/S/ W. WILLIAM LEAPHART'
/S/ PATRICIA O. COTTER
/S/ JOHN WARNER