IN THE UTAH COURT OF APPEALS

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State of Utah, Plaintiff and Appellee, v. Jason Paul Meyer, Defendant and Appellant.	)	MEMORANDUM DECISION (Not For Official Publication) Case No. 20050567-CA F I L E D (September 8, 2006) 2006 UT App 364

Second District, Ogden Department, 051900197
The Honorable Michael D. Lyon

Attorneys: Dee W. Smith, Ogden, for Appellant
Branden B. Miles, Ogden, for Appellee

Before Judges Bench, Billings, and McHugh.

McHUGH, Judge:

Jason Paul Meyer appeals from his conviction of assault, a class A misdemeanor, see Utah Code Ann. § 76-5-102 (2005), on the basis that the trial court erred in permitting the jury to hear evidence of his prior felony convictions and incarcerations. We affirm.

Because the State has conceded that the trial court erred in compelling Meyer to testify before the jury about his prior felony convictions and incarcerations, the issue on appeal is whether that evidence, on balance, was prejudicial to Meyer. "The standard for reversal in cases involving an erroneous failure to exclude prior convictions is whether absent the error, there was a reasonable likelihood of a more favorable result for the defendant." State v. Bruce, 779 P.2d 646, 656 (Utah 1989); see also Utah R. Crim. P. 30(a) ("Any error, defect, irregularity[,] or variance which does not affect the substantial rights of a party shall be disregarded."). "Erroneous admission of evidence is harmless if there is convincing, properly admitted evidence of all essential elements of the case." Bruce, 779 P.2d at 656 (quotations and citations omitted).

We hold that the error was harmless in this case. Once the State elicited the information of Meyer's previous convictions and incarcerations, it did not use that information further and did not mention it in its closing arguments. More importantly, Meyer testified on direct examination that he hit the victim: "There was one punch thrown. . . . I probably threw the first punch, 'cause I was, you know, he might hit me first." He also stated, "I'm saying I know I'm guilty for assault, yes, I am--you know what I'm saying--but not to the fact that . . . cuz it was an altercation." In light of Meyer's admissions, we cannot say that the error by the trial court undermines our confidence in the verdict.

Affirmed.

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Carolyn B. McHugh, Judge

WE CONCUR:

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Russell W. Bench,
Presiding Judge

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Judith M. Billings, Judge