

IN THE UTAH COURT OF APPEALS

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State of Utah,	)	MEMORANDUM DECISION	
	)	(Not For Official Publication)	
Plaintiff and Appellee,	)		
	)	Case No. 20050403-CA	
v.	)		
	)	F I L E D	
Sharon Kaye Reddish,	)	(September 14, 2006)	
	)		
Defendant and Appellant.	)	<table border="1"><tr><td>2006 UT App 376</td></tr></table>	2006 UT App 376
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Second District, Farmington Department, 041700875  
The Honorable Darwin C. Hansen

Attorneys: Scott L. Wiggins, Salt Lake City, for Appellant  
Mark L. Shurtleff and Kenneth A. Bronston, Salt Lake  
City, for Appellee

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Before Judges Bench, Billings, and Thorne.

PER CURIAM:

Sharon Kaye Reddish appeals her convictions for various crimes arguing that (1) the district court erred in admitting evidence of a prior bad act; (2) the district court erred by failing to resolve an alleged inaccuracy in the presentence investigation report; and (3) her trial counsel was ineffective for failing to insure that the district court resolved the alleged inaccuracy in the presentence investigation report.

Reddish argues that the district court erred in admitting evidence of a seven-year-old conviction for possession of methamphetamine. "[A]n appellate court will not overturn a jury verdict for the admission of improper evidence if the admission of the evidence did not reasonably effect the likelihood of a different verdict." State v. Houskeeper, 2002 UT 118, ¶26, 62 P.3d 444. Prior to Reddish's objection to the prosecutor's question concerning whether she ever told the arresting police officer about a prior conviction for drug possession, the jury had already heard unobjected to testimony from the arresting police officer concerning Reddish's prior drug use. Specifically, the officer testified that in response to his questions concerning prior drug use, Reddish responded that it

had been several years since she had used methamphetamine. He also testified that Reddish told him that she believed the only reason he asked her to exit her vehicle was because the officer had done a background check and knew she had been arrested for drug possession on a prior occasion. Thus, the jury was already aware of Reddish's prior drug use. When this is coupled with the other evidence adduced at trial, it is evident that even if we were to assume that the district court erred in admitting the evidence, such error was harmless.

Reddish next argues that the district court erred in failing to resolve an alleged inaccuracy in the presentence investigation report. The State concedes that the district court failed to comply with Utah Code section 77-18-1(6)(a) by not resolving the alleged inaccuracies on the record. See Utah Code Ann. § 77-18-1(6)(a) (Supp. 2006). However, the State argues that Reddish was not prejudiced by this mistake during sentencing. Accordingly, it requests this court to affirm Reddish's sentence and remand solely to comply with section 77-18-1(6)(a).<sup>1</sup>

In State v. Maroney, 2004 UT App 206, 94 P.3d 295, we held that the district court erred in failing to resolve Maroney's objections to the sentencing reports, and we remanded to allow the court to resolve the objections on the record. See id. at ¶31. We went on to state that "[i]f resolution of the objections affects the trial court's view of the appropriate sentence, the trial court may then revise the sentence accordingly." Id. This disposition is appropriate in the present case because Reddish alleges she was prejudiced by the failure to resolve the alleged inaccuracies in the report. Allowing the district court to revisit the sentences after resolving the alleged inaccuracies in the presentence investigation report, gives appropriate deference to the district court's sentencing function. Accordingly, we remand, but reject the State's request that we affirm the sentences prior to remand.

Based upon our review of the records and the State's concession, we remand the case so "the sentencing judge can consider the objections to the presentence report, make findings

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<sup>1</sup>While Reddish does not expressly state that she was prejudiced by the district court's failure to comply with this section, she does argue that she was prejudiced by her trial counsel's failure to insure that the district court resolved the alleged inaccuracy. In so doing, she asserts that the sentence would have been different if the inaccuracy was resolved in her favor. Accordingly, Reddish does allege that she was prejudiced by the failure to resolve the alleged inaccuracy.

on the record as to whether the information objected to is accurate, and determine on the record whether that information is relevant to sentencing." State v. Jaeger, 1999 UT 1, ¶44, 973 P.2d 404. After resolving the alleged inaccuracies in the presentence investigation report, the district court may revise the sentences as it deems appropriate. Our disposition makes it unnecessary to consider alternative arguments alleging ineffective assistance of trial counsel.

Affirmed in part and remanded.

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Russell W. Bench,  
Presiding Judge

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Judith M. Billings, Judge

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William A. Thorne Jr., Judge