FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,	)	
Plaintiff-Appellee,	)	Filed April 30, 1985
vs.	)	
RUVEN GEORGE SEIBERT,	)	5-89 84-715
Defendant-Appellant.	)	

Appeal from the Iowa District Court for Dubuque County - Alan L. Pearson, Judge.

Defendant appeals from conviction and sentence for failure to stop and render aid at the scene of a personal injury motor vehicle accident in violation of Iowa Code sections 321.261 and 321.263 (1983). AFFIRMED.

Charles L. Harrington, Appellate Defender, and Raymond E. Rogers, Assistant Appellate Defender, for defendant-appellant.

Thomas J. Miller, Attorney General, and Lona Hansen, Assistant Attorney General, for plaintiff-appellee.

Heard by Donielson, P.J., and Snell and Sackett, JJ.

PER CURIAM

The charges against the defendant, Ruven Seibert, arose out of a motor vehicle accident involving a semi-trailer truck driven by Seibert and an automobile.

The State gave pre-trial notice that it intended to impeach Seibert, if he took the stand, with a prior conviction of false swearing. Seibert subsequently filed a motion in limine to exclude evidence of the prior conviction on the ground that the prior conviction was more than ten years old and thus, inadmissible under Iowa R. Evid. 609(b). Seibert had been convicted in 1969 and released from custody for that conviction in 1973. The trial court ruled that the probative value of the evidence outweighed its prejudicial effect and denied the motion in limine.

At trial, witnesses to the accident testified that the trailer portion of Seibert's truck crossed the centerline of a busy street and its rear wheels hit an automobile traveling in the opposite direction. After the impact, the trailer straightened out and the truck continued down the road. The automobile was a total loss and the passengers were seriously injured. One of the witnesses followed the truck, stopped Seibert less than a mile from the collision, and informed him that he had caused an accident. Seibert denied causing an accident but returned to the scene. When he arrived, Seibert informed the police that he may have been involved in the accident.

Seibert testified that he thought he had hit a chuck hole. He applied his brakes, looked into the rearview mirrors, saw nothing and continued driving. He maintained that he did not know about the accident until he was later informed about it.

On cross-examination, the State elicited the 1969 conviction and a 1975 conviction under the National Motor Theft Act. Also during cross-examination, the prosecutor questioned Seibert about his driver's logbook and certain time discrepancies therein. Defense counsel's objection to this line of questioning on

the ground that it was irrelevant was overruled. The logbook was then admitted into evidence over defense counsel's renewed objections. Then during closing arguments, the State attempted to impeach Seibert's testimony by alleging that he was attempting to cheat his employer or the government on his time.

On appeal, defendant asserts: (1) the trial court erred in allowing the State to impeach the defendant with a 1969 felony conviction; and (2) the trial court erred in allowing the prosecution to cross-examine the defendant regarding his truck driver's logbook and erred in admitting the logbook into evidence.

Iowa Rule of Evidence 609 permits the impeachment of a witness by evidence of a conviction of a crime involving dishonesty or false statement. The rule states:

> **Rule 609. Impeachment by evidence of conviction of crime.**
>
> (a) General rule. For the purpose of attacking the credibility of a witness, evidence that the witness has been convicted of a crime involving dishonesty or false statement shall be admitted if elicited from the witness or established by public record during cross-examination but only if the crime constituted a felony, aggravated misdemeanor, or other crime punishable by imprisonment in excess of one year pursuant to the law under which he was convicted, and the court determines that the probative value of admitting this evidence outweighs its prejudicial effect.
>
> (b) Time limit. Evidence of a conviction under this rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the court determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect. However, evidence of a conviction more than ten years old as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.

Appellant claims the trial court abused its discretion in admitting evidence of a 1969 conviction for false swearing.

The admission of evidence lies within the sound discretion of the trial court and we will not find an abuse of discretion unless the action of the trial court is clearly unreasonable under the attendant circumstances. State v. DeBerg, 288 N.W.2d 348, 351 (Iowa 1980).

In this case, we do not feel that the trial court abused its discretion in admitting evidence of the criminal conviction even though it was more than ten years old. The crime of false swearing is very probative of the witness's credibility. In determining whether a conviction is too remote, one factor the court should consider is whether the defendant has led a "legally blameless life" after the conviction. State v. Jones, 271 N.W.2d 761, 766 (Iowa 1979). The defendant in this case has been convicted of several crimes since the 1969 conviction, including a conviction under the National Motor Theft Act in 1975 which was also introduced. We conclude there was no abuse of discretion in admitting the 1969 conviction.

We also reject the argument that the trial court erred in permitting cross-examination of the defendant regarding his logbook and in receiving the logbook in evidence.

Defendant first argues that this evidence was improperly received because it was an attempt to impeach a witness by showing specific instances of conduct under Iowa Rule of Evidence 608(b). Under this rule, specific acts may not be proven by extrinsic evidence. Defendant argues the logbook constituted extrinsic evidence and was therefore inadmissible. Because this argument is raised for the first time on appeal, we will not review it. State v. DeBerg, 288 N.W.2d 348, 351 (Iowa 1980).

The sole basis for review is whether the evidence was relevant. At trial, the prosecutor questioned the defendant about discrepancies and omissions of his logbook. Counsel for the defendant objected to these questions on relevancy grounds.

We find that the trial court did not err in admitting this evidence. It is probative of the issue of the defendant's credibility and therefore relevant.

The findings of the trial court are affirmed.

AFFIRMED.