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IOWA SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,)

Plaintiff-Appellee,) Filed November 26, 1980

vs.)

DANNY MOYERS,) 0-261
64122

Defendant-Appellant.)

Appeal from Muscatine District Court - Jack L. Burns, Judge.

Defendant appeals conviction of O.M.V.U.I. in violation of section 321.281, The Code 1979, and he appeals sentence. - AFFIRMED.

Douglas E. Johnston, Muscatine, for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa, and John P. Messina, Assistant Attorney General, for defendant-appellant.

Heard by Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Defendant, Danny Moyers, appeals his conviction of operating a motor vehicle while intoxicated in violation of section 321.281, The Code 1979. Defendant also appeals the sentence imposed by the trial court. We affirm.

I. Defendant contends that the trial court erred in admitting into evidence results of an intoxilizer test used for determining the concentration of ethyl alcohol in defendant's blood. In his appellate brief defendant alleges that the trial court admitted the intoxilizer results without satisfaction of the foundational requirement of section 321B.4, The Code 1979. Section 321B.4 specifies that results of breath tests are inadmissible without evidence that the devices and methods used were approved by the commissioner of public safety. See State v. Hansen, 203 N.W.2d 216, 223 (Iowa 1972). Defendant objected to admission of the intoxilizer results on the grounds that there was no expert testimony explaining how the intoxilizer works, what its function is, or whether it was checked and operating properly on the date defendant was tested. Defendant's objections made at trial to the admission of the intoxilizer results contain no mention of section 321B.4 or of its foundational requirement.

Matters not raised at trial may not be effectively asserted for the first time on appeal. State v. Washington, 257 N.W.2d 890, 895 (Iowa 1977); State v. Pardock, 215 N.W.2d 344, 347 (Iowa 1972). When a specific objection is overruled at trial, it is effective on appeal to the extent of the ground specified and no other. State v. Winquist, 247 N.W.2d 256, 259 (Iowa 1976). Every ground of exception which is not particularly specified is lost on appeal. State v. Droste, 232 N.W.2d 483, 487 (Iowa 1975). An objection that might have been supported by a legitimate reason but was not cannot support reversal. Winquist, 247 N.W.2d at 259. Therefore, because defendant did not object at trial to the admission of the intoxilizer results on the ground of section 321B.4, he has failed to preserve error on that issue.

II. Defendant contends that the trial court erred in failing to state on the record its reason for selecting the sentence as required by Iowa R. Crim. P. 22(3)(d). The trial court fined defendant $300 and ordered him to serve two days in Muscatine County jail. In imposing sentence the trial court noted that in 1976 defendant had entered a guilty plea to a previous O.M.V.U.I. charge. We consider the trial court's remark the

statement of a reason in satisfaction of rule 22(3)(d).

III. Defendant contends that if the trial court did consider his guilty plea to the 1976 O.M.V.U.I. charge as a basis for the sentence, it did so improperly. Defendant received a deferred sentence for the guilty plea and successfully completed probation. Defendant argues that because his successful discharge from probation means he incurred no conviction and no criminal record due to the 1976 incident, see State v. Farmer, 234 N.W.2d 89, 92 (Iowa 1975), the trial court could not legitimately consider the prior guilty plea as a factor in its sentencing decision. We reject defendant's argument.

In making a sentencing decision a trial court must consider and weigh all pertinent matters, including a defendant's propensities. State v. Stakenburg, 215 N.W.2d 265, 267 (Iowa 1974). In exercising its sentencing discretion it is not error for a trial court to ascertain any and all facts that will assist it in the proper exercise of that discretion, whether they be in or out of the record. Stakenburg, 215 N.W.2d at 267. The 1976 guilty plea is an important factor showing defendant's propensity to commit O.M.V.U.I. offenses. Moreover, Iowa law requires the supreme court administrator to maintain a permanent record of deferred judgments. § 907.4, The Code 1979. And prior to deferring judgment a trial court must consider any prior record of deferred judgments against a defendant. Id. The trial court legitimately considered defendant's 1976 guilty plea in making its sentencing decision.

AFFIRMED.