

MAY 16, 2000

SUPREME COURT OF LOUISIANA

99-KK-1528

STATE OF LOUISIANA

VERSUS

FERNANDO GUZMAN

Consolidated with

99-K-1753

STATE OF LOUISIANA

VERSUS

JERRY LYNN STILES

CALOGERO, C. J., concurring in part and dissenting in part

I am in agreement with the disposition of defendant Stiles's case and the court's determination that the trial court's failure to comply with La. C.Cr.P. art. 556.1 is not subject to error patent review. I dissent, however, from the majority's denial of defendant Guzman's motion to quash the bill of information charging him with second offense DWI.

Guzman moved to quash the bill of information because the State charged him with second offense DWI. The prior conviction resulted from Guzman's having pled guilty to first offense DWI in 1997. However, Guzman now asserts that he would not have pled guilty then if he had been informed that the resulting conviction could be used, as the State now attempts to do, to enhance the penalty for subsequent offenses.¹

¹ Guzman also took issue with the trial court's failure to inform him of the mandatory minimum penalty pursuant to 556.1A(1).

I disagree with the majority's conclusion that "[knowledge as to subsequent penalty enhancement] clearly would not have been a material factor in [Guzman's] decision to plead guilty to the first offense." Slip op. at 14. While not necessarily true in every case, I find it total conjecture and speculation in Guzman's case to conclude that he would have pled guilty to first offense DWI, even if he had known about possible penalty enhancement for subsequent offenses. In fact, his very contention in seeking to quash the bill of information charging him as a second offender is that he would not have pled guilty had he known about the potential for subsequent penalty enhancement. Therefore, I cannot agree that the trial court's failure to comply with 556.1, when Guzman pled guilty to the first offense, was harmless error.

Furthermore, I disagree with the majority's assertion that 556.1E does not necessarily require the trial court to inform defendant of possible penalty enhancement prior to accepting a plea of guilty. Slip op. at 8. Admittedly, the legislature should have been more careful when drafting 556.1E so as to expressly state, as was done with the other sections of 556.1, that the trial court comply with 556.1E before accepting a guilty plea. However, the majority's construction, of what was most likely a drafters' oversight, ignores the obvious purpose of article 556.1. Article 556.1 was enacted to ensure that guilty pleas are made with full knowledge and understanding of the consequences that follow. In order to enter a guilty plea with full knowledge and understanding of its consequences, defendant naturally must be informed of such before entering the plea. Informing defendant about the possibility of penalty enhancement after he pleads guilty does not serve the purpose of the statute.