

WEDNESDAY, JANUARY 14, 2009
10:00 A.M.

NO. 2

#24856

STATE OF SOUTH DAKOTA,
Plaintiff and Appellant

v.

MARTHA ANDERS,
Defendant and Appellee

Mr. Gary Campbell
Assistant Attorney General
1302 E Hwy 14 Ste 1
Pierre SD 57501-8501
Ph: 773-3215

(FOR APPELLANT)

Ms. Paula D. Camp
Pennington County Public
Defender's Office
315 St Joseph St RM 44
Rapid City SD 57701-2895
Ph 394-2181

(FOR APPELLEE)

The Honorable Jeff W. Davis
Seventh Judicial Circuit
Pennington County

(CR 07-5687)

20-20-10

#24856

STATEMENT OF LEGAL ISSUE

WHETHER THE TRIAL COURT ERRED IN DISMISSING THE INFORMATION PART II FILED BY THE STATE ON THE GROUND THAT A THIRD OFFENSE DRIVING UNDER THE INFLUENCE FELONY CONVICTION COULD NOT BE USED TO ENHANCE DEFENDANT'S SENTENCE UNDER SDCL 22-22-7?

The trial court dismissed the Information Part II (SR 72; A 24), notwithstanding the State's objections (SR 52-54, 59; A 13, 16).

State v. Fender, 504 N.W.2d 858 (S.D. 1993)

Haymaker v. State, 667 N.E.2d 1113 (Ind. 1996)

Lader v. Warden, Northern Nev. Correctional Center, 120 P.3d 1164 (Nev. 2005)

United States v. Rodriguez, __ U.S. __, 128 S.Ct. 1783, __ L.Ed.2d __ (2008)