Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2004-442

MAY TERM, 2005

Eugene F. Ladd	}	APPEALED FROM:
	}	
	}	
v.	}	Chittenden Superior Court
	}	
John Gorczyk	}	
	}	DOCKET NO. S1510-02 CnC
		Trial Judge: Matthew I. Katz

In the above-entitled cause, the Clerk will enter:

Eugene Ladd, an inmate committed to the custody of the Commissioner of Corrections, filed a Vermont Rule of Civil Procedure 75 complaint challenging his classification for participation in a community reintegration program. The superior court granted summary judgment in favor of the Commissioner. Ladd contends the court erred in determining that the classification was within the Commissioner's statutory authority. We affirm.

Ladd is currently incarcerated for several convictions, including grossly negligent operation of a motor vehicle with serious bodily injury resulting, in violation of 23 V.S.A. § 1091(b). The Department of Corrections operates an offender reintegration program, under 28 V.S.A. § 721, in which an inmate's participation may be limited if the inmate was convicted of a "listed crime." Id. § 722(2). Listed crimes are defined by statute, and include—as originally set forth by the Legislature—"careless or negligent operation resulting in serious bodily injury or death as defined in section 1091(c) or (d) of Title 23." 1999, No. 4, § 1 (codified at 13 V.S.A. § 5301(7)(X)) (emphasis added). Ladd's complaint alleged that he was improperly classified as having been convicted of a listed crime, because the crime for which he was convicted is set forth in 23 V.S.A. § 1091(b), which defines the substantive offense of grossly negligent operation. Subsection (c), in contrast, merely states that "the provisions of [§ 1091] do not limit or restrict the prosecution for manslaughter," while subsection (d) provides for a $50 surcharge for persons "convicted of violating subsection (b)." The trial court rejected Ladd's argument, concluding that the Legislature had inadvertently referred to the wrong section, and that it made no sense to adopt a "literalist approach that would nullify the section entirely."

We agree with the trial court's conclusion. The fundamental purpose of statutory construction is to determine and give effect to the intent of the Legislature, and in so doing we look principally to the plain language of the statute. In re Huntley, 2004 VT 115, ¶ 6, 865 A.2d 1123. However, when the plain language of the statute would render it meaningless or ineffective, we are not required to apply a literal construction. See Burr & Burton Seminary v. Town of Manchester, 172 Vt. 433, 436 (2001) ("[W]hen the plain meaning of the statute contradicts the intent of the Legislature, we are not confined to a literal interpretation of the statutory language."); State v. Baldwin, 140 Vt. 501, 511 (1981) (explaining that in construing statute, court is not "confined to a literal interpretation of the statutory language" that would render statute "meaningless" or "ineffective"). Indeed, we have held that this Court "may correct a statute whose language does not promote the intent of the Legislature due to clerical error in transcription, writing, or redrafting." In re C.S., 158 Vt. 339, 343 (1992).

Such an error was plainly the case here. The Legislature obviously intended to include grossly negligent

operation of a motor vehicle with serious bodily injury resulting as a statutorily "listed crime," and mistakenly referred to the wrong subsection. This is readily apparent from the fact that the Legislative Council has recently changed the provision in the statutory Cumulative Supplement to refer to 23 V.S.A. § 1091(b). Although it may not "alter the sense, meaning or effect of any act of the general assembly," the Legislative Council—in preparing an act for codification in the Vermont Statutes Annotated—may, among other things, "correct manifest typographical and grammatical errors." 2 V.S.A. § 424, 424(8). Although Ladd notes that the Legislature has previously amended the statute without changing the reference to subsections (c) and (d) of 23 V.S.A. § 1091, this does not, in our view, demonstrate an intent to refer to a provision that would otherwise render the statute meaningless and ineffectual. See Baldwin, 140 Vt. at 511 (noting that we avoid constructions that would render statute meaningless or ineffective).

The trial court's construction of the statute as including Ladd's conviction among the "listed crimes" was therefore correct. Accordingly, we discern no basis to disturb the judgment.

Affirmed.

BY THE COURT:

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Paul L. Reiber, Chief Justice

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John A. Dooley, Associate Justice

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Denise R. Johnson, Associate Justice