

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES LORENZO STUCKEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49339

FILED

AUG 22 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order denying a motion to correct an illegal sentence. Eighth Judicial District Court, Clark County; Lee A. Gates, Judge.

On November 20, 2006, the district court convicted appellant James Lorenzo Stuckey, pursuant to a guilty plea, of two counts of violating an extended protective order. For count one, the district court sentenced Stuckey to serve a jail term of 12 months flat time with credit for time served. For count two, the district court sentenced Stuckey to serve a consecutive jail term of 6 months regular time. Stuckey did not file a direct appeal.


On March 30, 2007, Stuckey filed the equivalent of a motion to correct an illegal sentence in the district court. The district court conducted a hearing and, on April 17, 2007, entered an order denying Stuckey's motion.

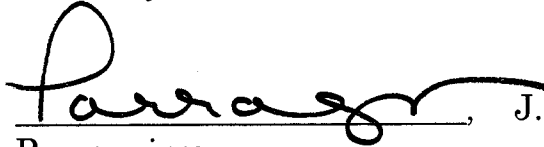
On appeal, Stuckey challenges the flat time sentence. In Haney v. State, we stated that "there is no statutory basis for flat time sentencing" and noted that "the Legislature has clearly evinced its intention to confer authority upon the sheriff's office to determine whether an individual inmate is eligible for good time [and work time] credits and

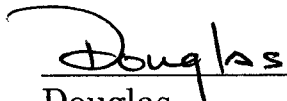
that allowing flat time sentencing is contrary to that intent.”¹ However, based on the length of the sentence imposed in this case, it appeared likely that Stuckey’s sentence had expired. Accordingly, we directed Stuckey’s counsel to show cause why the appeal should not be dismissed as moot.²

On July 24, 2008, Stuckey’s counsel filed a response to our order to show cause. In his response, counsel acknowledged that “the one year sentence has been served and the issue is moot for Mr. Stuckey.” Having considered counsel’s response, we conclude that this appeal is moot and we

ORDER this appeal DISMISSED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

¹124 Nev. ___, ___, ___, 185 P.3d 350, 352, 353 (2008).

²See Johnson v. Director, Dep’t Prisons, 105 Nev. 314, 316, 774 P.2d 1047, 1049 (1989) (stating that the expiration of a defendant’s sentence rendered moot any question concerning the computation of the sentence).

cc: Hon. Lee A. Gates, District Judge
Clark County Public Defender Philip J. Kohn
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk
James Lorenzo Stuckey