

IN THE SUPREME COURT OF THE STATE OF NEVADA

FREDI URIBE A/K/A FREDDIE URVE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 49686

**FILED**

SEP 08 2008

TRACEE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order denying appellant Fredi Uribe's motion to correct an illegal sentence. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge.

On May 23, 2006, Uribe was convicted, pursuant to a guilty plea, of one count of attempted possession of a stolen vehicle. The district court sentenced Uribe to a jail term of 365 days flat time, suspended execution of the sentence, and placed him on probation for an indeterminate period not to exceed three years. Uribe did not pursue a direct appeal from the judgment of conviction and sentence.


On January 26, 2007, after conducting a hearing, the district court entered an order revoking Uribe's probation and imposing the original sentence. On May 8, 2007, Uribe filed the equivalent of a motion to correct an illegal sentence in the district court; his pleading was titled, "motion to strike illegal flat time sentence." The State opposed the motion. On June 6, 2007, the district court entered an order denying Uribe's motion. This timely appeal followed.

On appeal, Uribe challenges the legality of the flat time sentence. In Haney v. State, this court recently held that "there is no statutory basis for flat time sentencing" and noted that "the Legislature

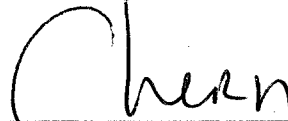
has clearly evinced its intention to confer authority upon the sheriff's office to determine whether an individual inmate is eligible for good time [and work time] credits and that allowing flat time sentencing is contrary to that intent.”<sup>1</sup> Based on the sentence imposed in this case, however, it appeared likely that Uribe had expired his sentence. Therefore, we directed counsel for Uribe to show cause why this appeal should not be dismissed as moot.<sup>2</sup>

On July 25, 2008, counsel for Uribe filed a response to this court's order to show cause. In the response, counsel notes that Uribe is no longer incarcerated and concedes that “the issue is moot.” Accordingly, having considered Uribe's response to this court's order and concluding that this appeal is moot, we

ORDER this appeal DISMISSED.

 J.

Maupin

 J.

Cherry

 J.

Saitta

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<sup>1</sup>124 Nev. \_\_\_, \_\_\_, \_\_\_, 185 P.3d 350, 352, 353 (2008).

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

cc: Hon. Stewart L. Bell, District Judge  
Clark County Public Defender Philip J. Kohn  
Fred Uribe  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk