

IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 34668

ERIC ROGER RAMEY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**FILED**

JAN 19 2000

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Bloom*  
CHIEF DEPUTY CLERK

ORDER OF REMAND

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of attempted burglary. This appeal is subject to the provisions of Nevada Rule of Appellate Procedure 3C.

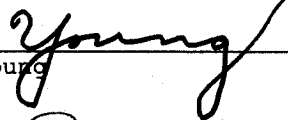
The sole issue raised in the fast track statement in this appeal is whether the district court improperly sentenced appellant based on impalpable or highly suspect information contained in letters from a person unrelated to the instant case. Specifically, appellant argues that two (2) letters received from Robert Perry discussed other charges that might be pending against appellant and also opined that appellant was violent, abusive, and mentally unstable. The first letter is dated June 15, 1999, and the second is dated July 4, 1999.

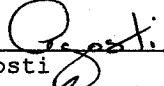
At the sentencing hearing, counsel for appellant objected to the admission of the letter of June 15, 1999. The district court responded by saying, simply, "Okay."

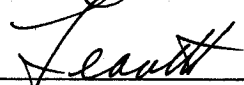
Because it appeared from the record before this court that the district court did read the letter and may have considered its contents during sentencing, on November 17,

1999, this court ordered the state to show cause why this case should not be remanded to the district court for a new sentencing hearing before a different district judge. See Todd v. State, 113 Nev. 18, 25-26, 931 P.2d 721, 725-26 (1997). On December 7, 1999, the state filed an answer to this court's order, and conceded that a new sentencing hearing before a different district judge is appropriate. Accordingly, we remand this matter to the district court with instructions to vacate appellant's sentence and hold a new sentencing hearing before a different district court judge.

It is so ORDERED.

  
\_\_\_\_\_, J.  
Young

  
\_\_\_\_\_, J.  
Agosti

  
\_\_\_\_\_, J.  
Leavitt

cc: Hon. Steven R. Kosach, District Judge  
Attorney General  
Washoe County District Attorney  
Washoe County Public Defender  
Washoe County Clerk