

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE ROLON GUERRERO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53801

FILED

NOV 04 2009

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of trafficking in a schedule I controlled substance weighing 14 to 28 grams. First Judicial District Court, Carson City; James E. Wilson, Judge. The district court sentenced appellant Jose Rolon Guerrero to serve a prison term of three to eight years and ordered him to pay a \$5,000 fine.

Guerrero contends that the district court abused its discretion by sentencing him to a minimum prison term of three years instead of two years. Guerrero argues that the clear language of NRS 453.3405(1) mandates his parole eligibility after two years, which is the mandatory minimum term of imprisonment prescribed by NRS 453.3385(2). Alternatively, Guerrero argues that NRS 453.3405(1) is ambiguous and that it must be liberally construed in his favor pursuant to the rule of lenity.

The interpretation of a statute presents a question of law and is subject to de novo review. Firestone v. State, 120 Nev. 13, 16, 83 P.3d 279, 281 (2004). Generally, statutes are given their plain meaning, construed as a whole, and read in a manner that makes the words and

phrases essential and the provisions consequential. Mangarella v. State, 117 Nev. 130, 133, 17 P.3d 989, 991 (2001). “Statutes within a scheme and provisions within a statute must be interpreted harmoniously with one another in accordance with the general purpose of those statutes and should not be read to produce unreasonable or absurd results.” Washington v. State, 117 Nev. 735, 739, 30 P.3d 1134, 1136 (2001). A statute is ambiguous when its language “lends itself to two or more reasonable interpretations.” State v. Catanio, 120 Nev. 1030, 1033, 102 P.3d 588, 590 (2004).

We conclude that NRS 453.3405(1) is not ambiguous as to the minimum sentence the district court may impose pursuant to NRS 453.3385(2). NRS 453.3405(1) provides, in relevant part:


[T]he adjudication of guilt and imposition of sentence of a person found guilty of trafficking in a controlled substance in violation of NRS 453.3385, 453.339 or 453.3395 must not be suspended and the person is not eligible for parole until he has actually served the mandatory minimum term of imprisonment prescribed by the section under which he was convicted.

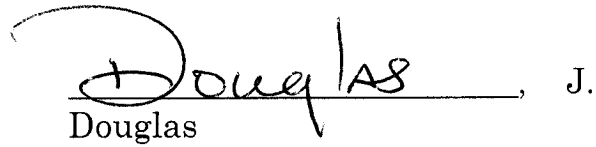
It is plain from the wording of this statute that its purpose is to prohibit convicted drug traffickers from receiving suspended sentences or early release to parole. Nothing in the wording of this statute prohibits the district court from imposing a minimum prison term that is greater than the minimum prison term set forth in the relevant statute.

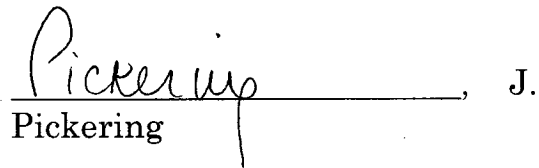
Guerrero’s sentence falls well within the minimum and maximum ranges allowed by the relevant statute, NRS 453.3385(2), and the minimum term does not exceed 40 percent of the maximum term, see NRS 193.130(1). Under these circumstances, we conclude that the district

court did not abuse its discretion by sentencing Guerrero to a minimum prison term of three years, and we

ORDER the judgment of conviction AFFIRMED.

 J.
Parraguirre

 J.
Douglas

 J.
Pickering

cc: Hon. James E. Wilson, District Judge
Martin H. Wiener
Attorney General Catherine Cortez Masto/Carson City
Carson City District Attorney
Carson City Clerk