

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
GEORGE POWE,
Respondent.

No. 55909

FILED

JUL 19 2010

ORDER OF AFFIRMANCE

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
Tracie K. Lindeman
DEPUTY CLERK

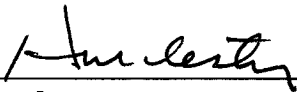
This is a sheriff's appeal from a district court order granting respondent George Powe's pretrial petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

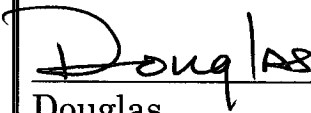
Powe was charged by information with furnishing a controlled substance to a State prisoner. In the proceedings below, the State argued that probable cause existed to support the charge pursuant to NRS 212.160(1). The State specifically alleged that Powe, an inmate at the Southern Desert Correctional Center, knowingly furnished, attempted to furnish, or aided or assisted in furnishing or attempting to furnish drugs to himself. The State now appeals from the district court's granting of the petition and dismissal of the count.


The district court's findings involved a matter of law and statutory interpretation which we review de novo. See Sheriff v. Marcus, 116 Nev. 188, 192, 995 P.2d 1016, 1018 (2000). Although the statute does not define "furnish," the district court found that furnishing "calls for delivery by one person to another person" and "you can't deliver to yourself," and therefore, Powe was not properly charged under NRS 212.160. We agree and conclude that the district court did not err by

dismissing the charge against Powe and granting his pretrial petition for a writ of habeas corpus. See Thomas v. State, 733 S.W.2d 675, 677 (Tex. Ct. App. 1987) (finding indictment charging inmate with furnishing drugs to himself defective because “furnish’ . . . contemplates an act and the relinquishment of possession and means to furnish to another party who is an inmate”); Walker v. State, 428 So. 2d 139, 141 (Ala. Crim. App. 1982) (“[F]urnishes’ means to provide or supply and connotes a transfer of possession.”); see also Bailey v. State, 120 Nev. 406, 409, 91 P.3d 596, 598 (2004) (stating that if the words of a statute have ordinary meaning, this court will not look beyond the plain language of the statute unless that meaning was clearly not intended). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Michael Villani, District Judge
Attorney General/Las Vegas
Law Office of John J. Momot
Eighth District Court Clerk