

IN THE SUPREME COURT OF THE STATE OF NEVADA

BILLY MAX ACOX,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58769

FILED

MAR 07 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Malone*
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of felony DUI. Fifth Judicial District Court, Esmeralda County; Dan L. Papez, Judge.

Appellant Billy Max Acox contends that the district court erred by sentencing him to a prison term of 4-10 years for a violation of NRS 484C.410(1)(a) when, in fact, he pleaded guilty to third-offense felony DUI pursuant to NRS 484C.400(1)(c), which provides for a possible prison term of 1-6 years. According to the criminal information, Acox was charged with third-offense felony DUI. The State concedes the error. We agree and remand the matter to the district court for a new sentencing hearing. Accordingly, we

ORDER the judgment of conviction REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.

Douglas, J.
Douglas

Gibbons, J.
Gibbons

Parraguirre, J.
Parraguirre

cc: Hon. Dan L. Papez, District Judge
Christopher R. Arabia
Arthur F. Wehrmeister
Attorney General/Carson City
Les W. Bradshaw
Esmeralda County Clerk