

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY LEE JACKSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73035

FILED

DEC 28 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Anthony Lee Jackson appeals from a judgment of conviction entered pursuant to a guilty plea of attempt to possess a controlled substance. Eighth Judicial District Court, Clark County; William D. Kephart, Judge.

Jackson argues the district court violated his right against double jeopardy when the district court increased his sentence from 90 days in jail to 180 days in jail. Specifically, Jackson claimed he had already begun to serve his sentence after the district court orally pronounced sentence, and therefore, the district court could not increase his sentence.


We disagree. Double jeopardy applies when a defendant has begun serving his sentence. *See Dolby v. State*, 106 Nev. 63, 65, 787 P.2d 388, 389 (1990). A defendant does not begin serving his sentence until the judgment of conviction is signed by the judge and entered by the clerk. *See NRS 176.105(3); Miller v. Hayes*, 95 Nev. 927, 929, 604 P.2d 117, 118 (1979).

In this case, the district court sentenced Jackson to serve 90 days in jail. Five days later, the district court reconsidered its decision, and sentenced Jackson to serve 180 days in jail. The judgment of conviction was not signed or filed by the clerk until 14 days after the district court

reconsidered its sentencing decision. Because Jackson had not begun serving his sentence, "the district judge had jurisdiction to modify or suspend his earlier decision." *Miller*, 95 Nev. at 929, 604 P.2d at 118. Accordingly, we conclude the district court did not violate Jackson's right against double jeopardy, and we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. William D. Kephart, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk