

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT ANTHONY GALE,

No. 37821

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

**FILED**

OCT 10 2001

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

ORDER OF REMAND

This is an appeal from an order of the district court denying appellant's motion to correct an illegal sentence. Appellant was originally convicted, pursuant to a guilty plea, of one count of manufacturing a controlled substance. The district court sentenced appellant to a prison term of 24 to 60 months. At the time he was sentenced, appellant had already been sentenced in 2 other district court cases. The judgment of conviction, entered on June 13, 2000, specified that the sentence in the instant case was to run concurrent with the sentence in one of the other cases.

Subsequent to the entry of the judgment of conviction, appellant filed a motion to amend the judgment of conviction, to reflect appellant's belief that the sentence was to run concurrent with the sentences in both of the other cases. On March 5, 2001, the district court entered an amended judgment of conviction clarifying that the sentence was to run concurrently with the first of the other sentences, but adding that the sentence was to run consecutive to the second sentence.

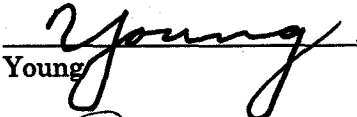
On March 7, 2001, appellant filed a motion to correct an illegal sentence. In the motion, appellant argued that the district court had improperly increased the severity of the sentence by entering the amended judgment of conviction. Appellant therefore asked that the prior judgment of conviction be reinstated. The State opposed the motion. On April 2, 2001, the district court entered an order denying the motion.

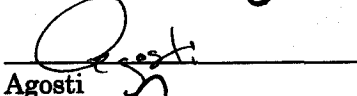
On appeal, the State concedes that the district court erred by amending the judgment of conviction. We agree. The district court had no jurisdiction to modify the sentence after appellant had begun to serve the

01-17111

sentence.<sup>1</sup> Accordingly, the district court shall vacate the amended judgment of conviction entered on March 5, 2001. We therefore

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

  
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Young J.

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

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

cc: Hon. Kathy A. Hardcastle, District Judge  
Attorney General  
Clark County District Attorney  
Daniel J. Albregts, Ltd.  
Clark County Clerk

<sup>1</sup>Staley v. State, 106 Nev. 75, 787 P.2d 396 (1990).