

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
DONNA DELANEY,
Respondent.

No. 38605

FILED

JAN 28 2003

ORDER OF AFFIRMANCE

CLERK OF SUPREME COURT
J. Richards

This is an appeal from an order of the district court granting respondent's motion to dismiss. Respondent was charged with possession of a majority of the ingredients to manufacture a controlled substance, a violation of NRS 453.322(1)(b). Respondent filed a motion to dismiss, arguing that the statute was unconstitutionally vague and overbroad. The district court initially denied the motion, but on September 25, 2001, the district court entered an order withdrawing the previous order and granting the motion to dismiss. This timely appeal followed.

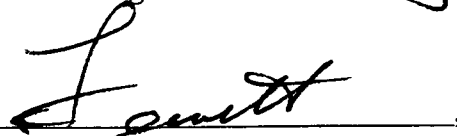
This court recently held that NRS 453.322(1)(b) is unconstitutionally vague on its face and therefore violates the United States and Nevada Constitutions.¹ Based on the reasoning in Sheriff v.


¹Sheriff v. Burdg, 118 Nev. ___, ___ P.3d ___ (Adv. Op. No. 86, December 20, 2002).

Burdg, we conclude that the district court did not err by granting the motion to dismiss. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 J.
Shearing

 J.
Leavitt

 J.
Becker

cc: Hon. Brent T. Adams, District Judge
Attorney General/Carson City
Washoe County District Attorney
Jack A. Alian
Washoe District Court Clerk