

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,  
Appellant,  
vs.  
MARILYN ALTERGOTT DUSTIN,  
Respondent.

No. 38662

FILED

JAN 24 2003

ORDER OF AFFIRMANCE

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

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. On September 12, 2001, the district court entered an order granting the motion to dismiss. This timely appeal followed.

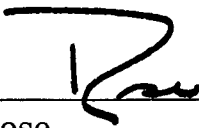
This court recently held that NRS 453.322(1)(b) is unconstitutionally vague on its face and therefore violates the United States and Nevada Constitutions.<sup>1</sup> Based on the reasoning in Sheriff v.


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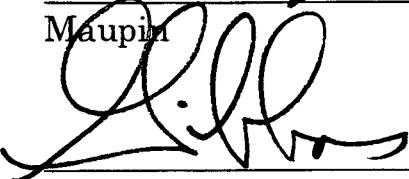
<sup>1</sup>Sheriff v. Burd, 118 Nev. \_\_\_, \_\_\_ P.3d \_\_\_ (Adv. Op. No. 86, December 20, 2002).

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.  
Rose

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. James W. Hardesty, District Judge  
Attorney General  
Washoe County District Attorney  
Edward B. Horn  
Lane, Fahrendorf, Vilorio & Oliphant, LLP  
Washoe District Court Clerk