

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER WAYNE ANGELO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39047

FILED

OCT 23 2002

ORDER OF REMAND

JANETIE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Ribon*
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of two counts of lewdness with a minor under the age of fourteen years. The district court sentenced appellant to serve two concurrent terms of life in the Nevada State Prison with the possibility of parole after ten years.

On July 24, 2002, the parties to this appeal filed a stipulation and motion seeking this court's remand of this appeal to the district court, apparently so that the district court can evaluate the legality of the sentence imposed in this matter. Appellant was charged with having committed two counts of lewdness with a minor between May and August 1995. If committed before July 1, 1995, each count was punishable by a prison sentence of not less than one, nor more than ten years; if committed after July 1, 1995, each count was a category B felony punishable by a minimum prison term of two years and a maximum term of not more than

ten years.¹ In 1997, the legislature amended the statute again and changed the offense to a category A felony punishable by a prison sentence of life with the possibility of parole after ten years. The 1997 amendments, however, expressly did not apply to offenses that were committed before October 1, 1997.² Thus, under these circumstances, the parties seek a remand so that the district court can evaluate the legality of the life sentences imposed in this matter.

On August 9, 2002, this court directed the district court either to deny the relief requested or to certify to this court its inclination to modify its decision and to request a remand.³

On August 29, 2002, the district court entered an order certifying its inclination to modify the sentence imposed and to enter an amended judgment of conviction. Cause appearing, we remand this matter to the district court for a new sentencing proceeding. This order constitutes this court's final disposition of this appeal and is entered without prejudice to appellant's right to challenge his conviction and


¹See 1995 Nev. Stat., ch. 443 § 89, at 1200 and §§ 393, 394, at 1340; see also 1997 Nev. Stat., ch. 455 § 5, at 1722 (changing the offense to a category A felony punishable by a term of life with the possibility of parole after ten years).

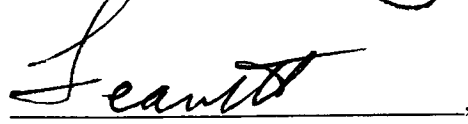
²1997 Nev. Stat., ch. 455 § 9, at 1723.

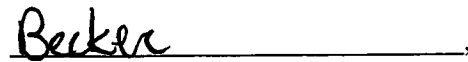
³See generally Huneycutt v. Huneycutt, 94 Nev. 79, 575 P.2d 585 (1978); Layton v. State, 89 Nev. 252, 510 P.2d 864 (1973).

sentence after re-sentencing by the filing of a timely notice of appeal from the district court's entry of the amended judgment of conviction.

It is so ORDERED.

 J.
Shearing

 J.
Leavitt

 J.
Becker

cc: Hon. Archie E. Blake, District Judge
Lyon County Public Defender
Attorney General/Carson City
Lyon County District Attorney
Lyon County Clerk