

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ZACHARY SCOTT ORMISTON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 87618-COA

FILED

MAY 01 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER VACATING JUDGMENT AND REMANDING

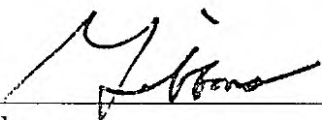
Zachary Scott Ormiston appeals from a judgment of conviction, entered pursuant to a guilty plea, of possession of a schedule I or II controlled substance, less than 14 grams, first or second offense. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Ormiston contends the district court abused its discretion when it denied his request for deferred judgment. He argues that because he consented to deferred judgment, the district court was required to grant it. The State concedes the error.

We agree that the district court abused its discretion by denying Ormiston's request for deferred judgment. *See Chavez v. State*, 125 Nev. 328, 348, 213 P.3d 476, 490 (2009) (reviewing a sentencing decision for abuse of discretion). NRS 176.211(3)(a)(1) requires the district court, upon the defendant's consent, to defer judgment for any defendant who has pleaded guilty pursuant to NRS 453.336(2)(a), *see Locker v. State*, 138 Nev., Adv. Op. 62, 516 P.3d 149, 153 (2022) ("NRS 176.211(3)(a)(1) expressly applies to guilty pleas for violating NRS 453.336(2)(a) and includes mandatory language that provides no discretion to refuse to defer judgment."). As the State concedes, Ormiston pleaded guilty to violating

NRS 453.336(2)(a) and consented to deferred judgment. Because the district court was required to defer judgment, Ormiston's judgment of conviction must be vacated, and this case must be remanded for the district court to defer judgment in accordance with NRS 176.211. Accordingly, we

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


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Connie J. Steinheimer, District Judge
Washoe County Alternate Public Defender
Marc Picker Law
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk