

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONALD LYAN MORRISON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55329

FILED

JUN 09 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER VACATING SENTENCE ENHANCEMENT AND REMANDING

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of burglary; attempted robbery, victim 60 years of age or older; and possession or sale of a document or personal identifying information to establish false status or identity. Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

Appellant Donald Lyan Morrison's sole contention on appeal is that the district court improperly applied the victim 60 years of age or older enhancement (age enhancement) to his attempted robbery conviction because attempted robbery is not an enumerated crime under NRS 193.167(1). We agree.

The interpretation of a statute is a question of law which this courts reviews de novo. Mendoza-Lobos v. State, 125 Nev. ___, ___, 218 P.3d 501, 506 (2009). We will attribute the plain meaning to a statute that is not ambiguous. Id.

NRS 193.167(1) unambiguously identifies the crimes to which the age enhancement applies and attempted robbery is not identified in the statute. Thus, we conclude that based upon the plain language of the statute, the age enhancement may not be applied to attempted robbery

and the district court erred by enhancing Morrison's attempted robbery conviction. Accordingly, we

VACATE MORRISON'S SENTENCE ENHANCEMENT AND REMAND this matter to the district court for entry of an amended judgment of conviction.

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Hon. Stefany Miley, District Judge
Hon. Stuart Bell, Senior Judge
Kajioka & Associates
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk