

IN THE SUPREME COURT OF THE STATE OF NEVADA

MURRAY JONES, JR.,

No. 37435

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

OCT 18 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. P. [Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's motion to correct an illegal sentence and to correct clerical errors.

We have reviewed the record on appeal and for the reasons stated in the attached order of the district court, we conclude that the district court properly dismissed appellant's petition. Therefore, briefing and oral argument are not warranted in this case.¹ Accordingly, we affirm the order of the district court.

It is so ORDERED.

Young J.
Young
Agosti J.
Agosti
Leavitt J.
Leavitt

cc: Hon. Connie J. Steinheimer, District Judge
Attorney General
Washoe County District Attorney
Murray Jones, Jr.
Washoe County Clerk

¹See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975), cert. denied, 423 U.S. 1077 (1976).

1 Code 2840

FILE

JAN 29 2001

AMY HARVEY, CLERK

By: MS
DEPUTY CLERK

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE

8 *****

9 MURRY JONES JR.,

10 Petitioner,

11 vs.

Case No. CR99-2010

12 STATE OF NEVADA,

Dept. No. 4

13 Respondent.

14 ORDER

15 Petitioner Jones filed a Motion to Correct an Illegal Sentence and to Correct Clerical
16 Errors on January 3, 2001. Respondent filed an Opposition to Petitioner's Motion to Correct
17 Illegal Sentence and to Correct Clerical Errors on January 9, 2001. The matter is now before the
18 Court for decision.

19
20 Jones was found with a small amount of cocaine in his possession. At the time of his
21 arrest, Jones was on lifetime parole for a sexual assault he was convicted for in 1967. Jones
22 pled guilty to Possession of a Controlled Substance and was sentenced to a term of twelve (12)
23 to thirty-six (36) months to run consecutively to the time the parole board would allot for his
24 parole violation. Jones indicated he understood that the sentence he was receiving for the
25 instant offense would run consecutively to his parole revocation term in his guilty plea
26

1 memorandum. Jones also claimed he knew that the terms would run consecutively in open
2 court at the time that he entered the plea. The fact that the new sentence would run
3 consecutively to the parole violation was again mentioned at the sentencing hearing dated
4 January 13, 2000, in the Petitioner's presence with no objection from him.
5

6 Jones filed an appeal to his conviction claiming that the prosecutor breached the plea
7 agreement. The Supreme Court found his appeal lacked merit and denied.

8 Petitioner's current motion alleges that NRS § 176.035 (5) bars the Court from imposing
9 a sentence for the instant offense consecutive to the term for which he was on parole.

10 Petitioner's claim is that parole status is not one of the enumerated conditions listed in NRS §
11 176.035 that mandate or authorize consecutive sentencing.
12

13 The State's Motion in Opposition to the Petitioner's motion simply claims that the State
14 opposes the Petitioner's motion because it is "...unclear as to what relief he requests and what
15 legal basis he might be entitled to relief."

16 While it is true that the Petitioner's motion is unclear, a careful reading reveals the thrust
17 of the motion, and the desired result sought.

18 On the merits, however, the Petitioner's motion must be denied. The Nevada Supreme
19 Court has ruled that a defendant who is on parole for a past offense is deemed to be a person
20 under sentence of imprisonment for the purposes of NRS § 176.035 and therefore consecutive
21 sentences are mandatory. Adams v. Warden 97 Nev. 171 (1981) at 173. See also, Founts v.
22 Warden 91 Nev. 353 (1975) at 356, and Parker v. State 109 Nev. 383 (1993) at 393.
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24 Based on the foregoing and with good cause appearing,
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IT IS HEREBY ORDERED that Petitioner's Motion is DENIED.

DATED this 28 day of January, 2001.

Connie J. Steinheimer
DISTRICT JUDGE