

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. 14754

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THE STATE OF MONTANA,

Plaintiff and Respondent,

v.

GARY ALLEN,

Defendant and Appellant.

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O R D E R

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This Court filed its decision in the above matter on the 13th day of May, 1980. In that Opinion it was stated that the amount of legally seized marijuana which was in the plain view of the police officers was in an amount that would support a felony charge.

On the 30th day of May, 1980, defendant-appellant filed with this Court his petition for rehearing and calls to this Court's attention that our conclusion in this regard is in error.

The State of Montana, through the Attorney General, has failed to file a response within the time allowed by law to defendant-appellant's petition; and after full consideration of the trial record by this Court,

IT IS HEREBY ORDERED:

The Opinion filed by this Court on May 13, 1980, is hereby amended in the following manner:

On Page 2, delete the phrase "and that both defendant and Ms. Smith were drug users" from lines 16 and 17.

On Page 2, delete the phrase "and saw Tammy Frazier, a known juvenile drug user" from line 25.

"On Page 14, line 6, delete all language beginning with the sentence "On oral argument

**FILED**

JUN 24 1980

*Thomas J. Kinney*

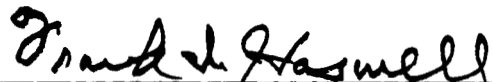
it was admitted . . ." through the end of  
the Opinion (lines 7 through 12).

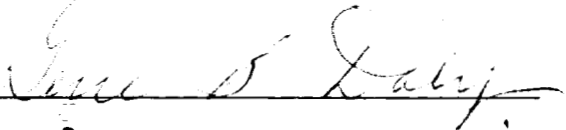
On Page 14, the following language is to be  
inserted for the language deleted on lines  
6 through 12:

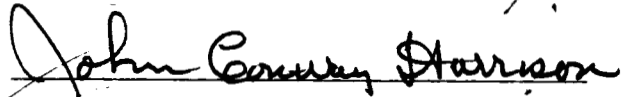
"The cause is remanded to the District Court  
with instructions to dismiss with prejudice."

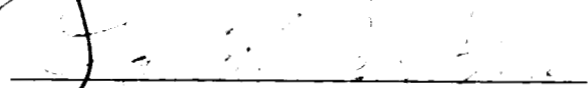
IT IS FURTHER ORDERED that the petition for rehearing is  
denied.

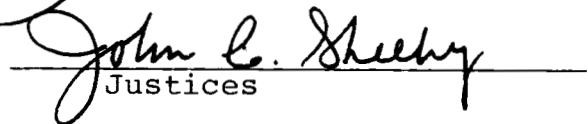
DATED this 24th day of June, 1980.

  
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Chief Justice

  
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Justices