

***IN THE SUPREME COURT, STATE OF WYOMING***

**2014 WY 67**

***April Term, A.D. 2014***

**May 29, 2014**

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**GERALD E. CONDA,**

**Appellant  
(Defendant),**

**v.**

**THE STATE OF WYOMING,**

**Appellee  
(Plaintiff).**

**S-14-0055**

**ORDER REVERSING JUDGMENT AND SENTENCE**

[¶1] **This matter** came before the Court upon a “Stipulated Motion to Reverse and Remand,” e-filed herein May 15, 2014. After a careful review of the motion and the file, this Court finds as follows. Appellant pled guilty to possession of marijuana, a third offense felony under Wyo. Stat. Ann. § 35-7-1031(c)(i)(A). In the first issue in Appellant’s brief, he contends the charge does not qualify for felony treatment because he does not have the two prior convictions needed to enhance the charge to a felony. In the stipulated motion, the parties agree that one of the prior convictions relied upon by the district court was no conviction at all, because the charge was dismissed pursuant to Wyo. Stat. Ann. § 35-7-1037. This Court agrees as well. The charge against Appellant does not qualify for felony treatment, because he does not have two prior convictions. It is, therefore,

[¶2] **ORDERED** that the “Judgment and Sentence” entered on December 5, 2013, in Sheridan County District Court, Docket Cr. 2013-41, be, and hereby is, reversed and vacated. This matter is remanded to the district court for proceedings consistent with this order.

[¶3] **DATED** this 29<sup>th</sup> day of May, 2014.

**BY THE COURT:**

/s/

**MARILYN S. KITE**  
**Chief Justice**