

**Filed 3/18/99 by Clerk of Supreme Court
IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

1999 ND 40

State of North Dakota,

Plaintiff and Appellee

v.

Paul E. Palmer,

Defendant and Appellant

No. 980360

Appeal from the District Court of Williams County, Northwest Judicial District, the Honorable David W. Nelson, Judge.

AFFIRMED.

Per Curiam.

Laura L. Gray, Assistant State's Attorney, P.O. Box 2047, Williston, N.D. 58802-2047, for plaintiff and appellee.

Paul E. Palmer, pro se, P.O. Box 5521, Bismarck, N.D. 58506-5521, defendant and appellant.

David D. Hagler, Attorney General's Office, 600 E. Boulevard Avenue, Bismarck, N.D. 58505-0040, for amicus curiae.

State v. Palmer

No. 980360

Per Curiam.

[¶1] Paul E. Palmer appeals from the order denying his N.D.R.Crim.P. 35, motion to correct an illegal sentence, seeking a reversal of this Court’s prior decisions concerning N.D.C.C. § 12.1-32-07(6). Palmer also argues the legislative intent of N.D.C.C. § 12.1-32-07(6) shows a longer sentence was not intended to be permissible and that application of the statute in such a manner is constitutionally void for vagueness and ambiguity.

[¶2] We affirm under N.D.R.App.P. 35.1(a)(7). State v. Lindgren, 483 N.W.2d 777, 779 (N.D. 1992) (holding N.D.C.C. § 12.1-32-07(5) as amended (currently codified at N.D.C.C. § 12.1-32-07(6)) authorizes a trial court to re-sentence a defendant who violates a condition of probation to any sentence initially available); see also City of Bismarck v. Uhden, 513 N.W.2d 373, 376 (N.D. 1994) (recognizing that “[w]here courts of this State have construed statute and such construction is supported by the long acquiescence on the part of the legislative assembly and by the failure of the assembly to amend the law, it will be presumed that such interpretation of the statute is in accordance with legislative intent”).

[¶3] Gerald W. VandeWalle, C.J.
William A. Neumann
Dale V. Sandstrom
Carol Ronning Kapsner
Mary Muehlen Maring