

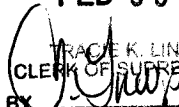
IN THE SUPREME COURT OF THE STATE OF NEVADA

RONALD BYRON HART,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54120

FILED

FEB 03 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
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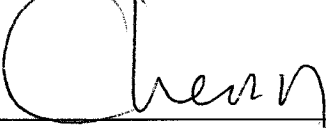
ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of attempted lewdness with a child under the age of 14 years. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Judge.


Hart contends that NRS 201.230 (lewdness with a child under 14 years; penalties) is unconstitutional because a mandatory life term, as required under the statute, is grossly disproportionate to the crime and constitutes cruel and unusual punishment. See U.S. Const. amend. VIII; Nev. Const. art. 1, § 6. Hart was sentenced pursuant to the attempt statute, NRS 193.330(1)(a)(1), and therefore does not have standing to challenge the constitutionality of NRS 201.230. And to the extent that Hart implies that his guilty plea was invalid because he only entered a plea to avoid the penalties associated with the lewdness with a child statute, we need not address it because challenges to the validity of a guilty plea must be raised in the district court in the first instance by either filing a motion to withdraw the guilty plea or commencing a post-conviction proceeding pursuant to NRS chapter 34, and the record does not indicate that Hart raised the issue below. Bryant v. State, 102 Nev.

268, 272, 721 P.2d 364, 368 (1986); see also O'Guinn v. State, 118 Nev. 849, 851-52, 59 P.3d 488, 489-90 (2002). Accordingly, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Chief Judge, Eighth Judicial District
Hon. Joseph T. Bonaventure, Senior Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk