

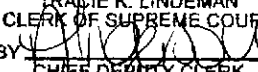
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOHN FRANCIS WORLEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68971

FILED

FEB 17 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying a motion to correct an illegal sentence and for the withdrawal of a void plea of guilty.¹ Second Judicial District Court, Washoe County; Elliott A. Sattler, Judge.

In his motion filed on June 15, 2015, appellant John Worley claimed his sentence was illegal because he received a sentence of 5 years to life in prison rather than the required sentence of 10 years to life in prison. Specifically, he claims he was convicted of sexual assault on a minor under the age of 14, and in 1989, that crime carried a sentence of 10 years to life. Therefore, his sentence is illegal.


Worley failed to demonstrate his sentence was facially illegal or the district court lacked jurisdiction. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Worley pleaded guilty to sexual assault under NRS 200.366. *See* 1977 Nev. Stat., ch. 598, § 3, at 1626-27. While no statute or subsection is specified in the judgment of conviction, according to the plea negotiations, Worley pleaded guilty to former NRS


¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

200.366(2)(b)(1).² *See id.* At the time Worley was convicted in 1989, the sentence for a violation of NRS 200.366(2)(b)(1) was life in prison with the possibility of parole after 5 years. *See id.* Therefore, we conclude the district court did not err in denying Worley's motion, and we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Elliott A. Sattler, District Judge
John Francis Worley
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

²When Worley was sentenced on September 8, 1989, NRS 176.105 did not require the judgment of conviction to contain a citation to the statute or subsection a defendant was convicted under. *See* 1979 Nev. Stat., ch. 571, § 2, at 1124. Effective October 1, 1989, NRS 176.105 required citations to the statute. *See* 1989 Nev. Stat., ch. 438, § 1, at 938; 1989 Nev. Stat., ch. 3, § 1, at 2.

³We note Worley abandoned his claim to withdraw his plea in his response to the State's motion to dismiss in the district court and in his informal brief to this court.