IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN OWEN WRIGHT,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 37525

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of lewdness with a minor under the age of 14 years.

On February 4, 1993, appellant John Owen Wright was convicted, pursuant to a jury trial, of two counts of lewdness with a minor under the age of 14 years and two counts of sexual assault. The district court sentenced Wright to serve two consecutive prison terms of three years for the lewdness counts and two consecutive prison terms of life with the possibility of parole after 10 years for the sexual assault counts. Wright filed a direct appeal, and this court affirmed his conviction.[1]

On May 21, 1996, Wright filed a post-conviction petition for a writ of habeas corpus. The district court granted Wright's petition, finding that his trial counsel was ineffective. The State appealed, and this court affirmed the order of the district court.[2] Thereafter, to avoid a retrial on the charges in the original information, Wright pleaded guilty to one count of lewdness with a minor under the age of 14 years, admitting that sometime between December 1991 and March 1992 he committed a lewd act upon a female under the age of 14 years. The district court sentenced Wright to time served of 8 years and 84 days. The district court also

[1]Wright v. State, Docket No. 24416 (Order Dismissing Appeal, March 31, 1994).

[2]State v. Wright, Docket No. 34202 (Order Dismissing Appeal, July 7, 2000).

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ordered Wright to register as a sex offender. Wright filed the instant appeal.

Wright first contends that the district erred in ordering him to register as a sex offender, pursuant to NRS 179D.240, because he did not commit an offense against a child enumerated in NRS 179D.210, which would require registration.[3] We conclude that Wright's contention lacks merit. The district court did not err in requiring Wright to register as a sex offender because he pleaded guilty to the crime of lewdness with a child under the age of 14 years, a sexual offense within the purview of the sex offender registration statutes.[4]

Wright next contends that the sex offender registration statute is an unconstitutional ex post facto enactment when applied to him because Chapter 179D, requiring registration, came into existence after Wright committed his offense. We conclude that Wright's contention lacks merit.

The constitutional prohibition on ex post facto legislation is aimed at laws that "'retroactively alter the definition of crimes or increase the punishment for criminal acts.'"[5] Statutory changes are procedural, and cannot be ex post facto laws, if they do not make previously innocent acts criminal, do not aggravate the crime previously committed, do not

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[3]There appears to be a typographical error in the judgment of conviction. The order requires Wright to register as a sex offender "pursuant to NRS 179D.240." NRS 179.240 is a provision requiring registration for persons convicted of violent offenses against children – not sexual offenses. The relevant registration statute for a person convicted of a sexual offense against a child is NRS 179D.460. Although a typographical error exists in the judgment of conviction, this error does not warrant reversal of Wright's conviction because the district court expressly ordered him to register as a "sex offender," thereby implicating NRS 179D.460.

[4]See NRS 179D.410(13) (defining lewdness with a child as a "sexual offense"); NRS 179D.400(1) (defining "sex offender" as a person who has been convicted of a sexual offense enumerated in NRS 179D.410); NRS 179D.460(1)-(2) (requiring any sex offender convicted of a sex offense after July 1, 1956, to register with a local law enforcement agency of the county in which he resides within 48 hours).

[5]Miller v. Warden, 112 Nev. 930, 933, 921 P.2d 882, 883 (1996) (quoting Collins v. Youngblood, 497 U.S. 37, 43 (1990)).

provide greater punishment and do not change the proof necessary to convict.[6]

In the instant matter, we conclude that enactment of NRS 179D.410, in 1997, did not add a new and additional punishment for the offense of lewdness with a child. In fact, in 1991 or 1992, at the time Wright committed his crime, former NRS 207.152 required registration for sex offenders.[7] Former NRS 207.151 defined "sex offender" to include a person convicted of lewdness with a minor.[8] Because Wright's duty to register as a sex offender was not fundamentally altered by NRS 179D.410, Wright has not demonstrated that he has received a greater punishment than he would have received in 1991. Accordingly, NRS Chapter 179D is not an ex post facto enactment as applied to Wright.

Having considered Wright's contentions and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.

Young, J.
Young

Agosti, J.
Agosti

Leavitt, J.
Leavitt

cc: Hon. Archie E. Blake, District Judge
Attorney General
Churchill County District Attorney
Churchill County Public Defender
Churchill County Clerk

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[6]Dobbert v. Florida, 432 U.S. 282, 293 (1977).

[7]See 1973 Nev. Stat. ch. 568, § 39, at 923.

[8]See 1985 Nev. Stat. ch. 459, § 2, at 1413.