

IN THE SUPREME COURT OF THE STATE OF NEVADA

MELVIN JAMES GRAHAM, JR.,

No. 37817

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

**FILED**

**AUG 22 2001**

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant's post-conviction motion to withdraw his guilty plea.

On September 14, 2000, appellant was convicted, pursuant to a guilty plea, of one count of battery with a deadly weapon. The district court sentenced appellant to serve a prison term of 24 to 120 months. Thereafter, appellant filed a proper person direct appeal, which this court dismissed as untimely.<sup>1</sup>

On February 1, 2001, appellant filed a proper person motion to withdraw his guilty plea. In the motion, appellant contended that his plea was not knowing and voluntary because: (1) his attorney promised him that he would receive probation; (2) he was not told about his right to appeal; and (3) he received no benefit from the plea bargain because the State had improperly charged him with failing to register as a sex offender, since he was not required to register pursuant to NRS 179D.610. The district court denied appellant's motion finding that his contentions lacked merit. Appellant filed the instant appeal.

<sup>1</sup>Graham, Jr. v. State, Docket No. 37166 (Order Dismissing Appeal, January 10, 2001).

Appellant's sole contention is that Nevada's sex offender registration statutes, particularly NRS 179D.610, violate the Ex Post Facto Clause of the United States and Nevada constitutions. The record reveals, and appellant concedes, that he did not raise this issue in his motion to withdraw his guilty plea. Because appellant never raised this issue below, we decline to consider it.<sup>2</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Young J.  
Young

Leavitt J.  
Leavitt

Becker J.  
Becker

cc: Hon. Jerome M. Polaha, District Judge  
Attorney General  
Washoe County District Attorney  
Washoe County Public Defender  
Washoe County Clerk

<sup>2</sup>See Davis v. State, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991).