

IN THE SUPREME COURT OF THE STATE OF NEVADA

CORNELIUS JOHNSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 38650

FILED

OCT 16 2002

ORDER OF AFFIRMANCE

JANETTE ALBLOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of conspiracy to commit the crime of failure to register as a sex offender, a gross misdemeanor. The district court sentenced appellant Cornelius Johnson to serve a jail term of 180 days, and then suspended execution of the sentence and placed Johnson on informal probation for a time period not to exceed 12 months.

Johnson's sole contention on appeal is that his conviction should be reversed because Nevada's Sex Offender Registration Statutes violate the Ex Post Facto Clauses of the Nevada and United States Constitutions.¹ We conclude that Johnson's contention lacks merit.

Preliminarily, we note that, by pleading guilty, Johnson expressly waived his right to appeal this issue. Indeed, the plea agreement signed by Johnson stated that he was waiving the "right to appeal from adverse rulings on pretrial motions"; Johnson's pretrial

¹U.S. Const. art. I, § 10, cl. 1; Nev. Const. art. 1, § 15.

motion raising his ex post facto challenge had previously been denied by the district court. Nonetheless, even assuming Johnson did not waive his right to raise an ex post facto challenge, the issue lacks merit for two reasons. First, we have recently concluded Nevada's sex offender registration and notification scheme is a civil law enforcement tool, rather than a form of punishment,² and thus Johnson cannot show that Nevada's sex offender registration and notification scheme retroactively increased his punishment.³ Second, we note that the enactment of NRS 179D.410, in 1997, did not add a new and additional punishment for the offense of statutory sexual seduction. In fact, in 1991, at the time Johnson committed his crime, former NRS 207.152 required registration for sex offenders.⁴ Because Johnson's duty to register as a sex offender was not fundamentally altered by NRS 179D.410, Johnson cannot show that he has received a greater punishment than he would have received in 1991. Accordingly, Nevada's sex offender registration and notification scheme is not an ex post facto enactment as applied to Johnson.


²See Nollette v. State, 118 Nev. ___, 46 P.3d 87 (2002).

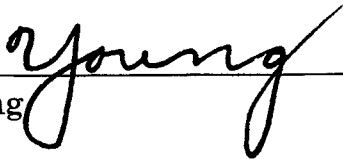
³Miller v. Warden, 112 Nev. 930, 933, 921 P.2d 882, 883 (1996) (quoting Collins v. Youngblood, 497 U.S. 37, 43 (1990)) (noting that ex post facto laws "retroactively alter the definition of crimes or increase the punishment for criminal acts").

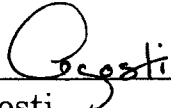
⁴See 1973 Nev. Stat., ch. 568, § 39, at 923; 1985 Nev. Stat., ch. 459, § 2, at 1413 (former NRS 207.151 defined "sex offender" to include a person convicted of statutory sexual seduction).

Having considered Johnson's contention and concluded that it lacks merit, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Rose


_____, J.
Young


_____, J.
Agosti

cc: Hon. Jerome Polaha, District Judge
Washoe County Public Defender
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk