

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARTIN SALDANA-VERDIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44212

FILED

AUG 16 2005

ORDER OF REVERSAL AND REMAND

CLERK OF SUPREME COURT
DEPUTY CLERK

This is an appeal from an order of the district court dismissing appellant Martin Saldana-Verdin's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge.

On April 29, 2003, the district court convicted appellant, pursuant to a guilty plea, of one count of sexual assault of a child. The district court sentenced appellant to serve a term of life in the Nevada State Prison with the possibility of parole after 20 years. This court affirmed the judgment of conviction on direct appeal.¹


On March 16, 2004, appellant filed a post-conviction petition for a writ of habeas corpus in the district court. The district court appointed counsel to represent appellant, and counsel filed a supplement to the petition on September 22, 2004. On October 13, 2004, the district court entered an order denying the petition without conducting an evidentiary hearing. This appeal followed.


In his petition below, appellant claimed among other things that his plea was involuntary because his counsel took advantage of his

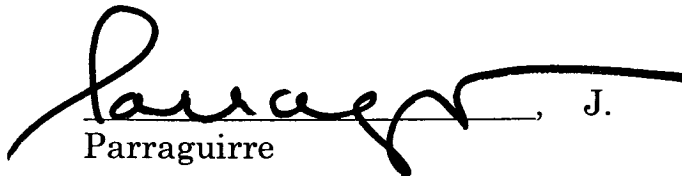
¹Saldana-Verdin v. State, Docket No. 41501 (Order of Affirmance, December 22, 2003).

inability to understand or speak English and the translator failed to completely read the plea agreement to him.² On appeal, appellant's sole assignment of error is that the district court improperly rejected this claim without an evidentiary hearing. The State has filed a confession of error in this court, conceding that this claim is not repelled by the record and that the matter should be remanded for an evidentiary hearing on whether the translator completely and accurately translated the plea agreement to appellant. In light of the State's confession of error, we remand this appeal to the district court for an evidentiary hearing on appellant's claim alleging that his interpreter did not completely and accurately translate the plea agreement.

Accordingly, we ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.³


_____, J.
Maupin


_____, J.
Douglas


_____, J.
Parraguirre

²In his opening brief, appellant expressly concedes that the district court properly dismissed the remaining two claims presented in his petition below without an evidentiary hearing.

³This order constitutes our final disposition of this appeal. Any subsequent appeal shall be docketed as a new matter.

cc: Hon. Steven R. Kosach, District Judge
Scott W. Edwards
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk