

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES HENRY DEXTER, III,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 44310

**FILED**

FEB 10 2005

ORDER OF AFFIRMANCE

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

This is a proper person appeal from an order of the district court denying appellant Charles Henry Dexter III's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jackie Glass, Judge.

On July 23, 2003, the district court convicted Dexter, pursuant to an Alford<sup>1</sup> plea, of coercion (sexually motivated). The district court sentenced Dexter to a term of 19 to 48 months in the Nevada State Prison. No direct appeal was taken.

On July 8, 2004, Dexter filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent Dexter or to conduct an evidentiary hearing. On October 21, 2004, the district court denied Dexter's petition. This appeal followed.

In his petition, Dexter contended that his plea was involuntary because he was unaware of the consequences of lifetime supervision. A guilty plea is presumptively valid, and Dexter carries the

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<sup>1</sup>North Carolina v. Alford, 400 U.S. 25 (1970).

burden of establishing that the plea was not entered knowingly and intelligently.<sup>2</sup> In determining the validity of a guilty plea, this court looks to the totality of the circumstances.<sup>3</sup> Further, this court will not reverse a district court's determination concerning the validity of a plea absent a clear abuse of discretion.<sup>4</sup>

Dexter's claim that he was not informed of the consequences of lifetime supervision is belied by the record.<sup>5</sup> The plea agreement specifically advised Dexter of the lifetime supervision requirement. Additionally, the district court advised Dexter during the plea canvass that his sentence would include lifetime supervision. All that is constitutionally required is that the totality of the circumstances demonstrates that Dexter was aware that he would be subject to lifetime supervision before entry of the plea.<sup>6</sup> Accordingly, we conclude that Dexter failed to demonstrate that his plea was involuntary in this regard.<sup>7</sup>

Dexter also claimed that his guilty plea was involuntary because it violated state and federal contract law, as the imposition of

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<sup>2</sup>Bryant v. State, 102 Nev. 268, 721 P.2d 364 (1986); see also Hubbard v. State, 110 Nev. 671, 877 P.2d 519 (1994).

<sup>3</sup>State v. Freese, 116 Nev. 1097, 13 P.3d 442 (2000); Bryant, 102 Nev. 268, 721 P.2d 364.

<sup>4</sup>Hubbard, 110 Nev. at 675, 877 P.2d at 521.

<sup>5</sup>See Hargrove v. State, 100 Nev. 498, 503 P.2d 222, 225 (1984).

<sup>6</sup>See Palmer v. State, 118 Nev. 823, 831, 59 P.3d 1192, 1197 (2002).

<sup>7</sup>Dexter also alleged that his counsel was ineffective for failing to advise him of the consequences of lifetime supervision. However, in light of our discussion above, we conclude Dexter's claim is without merit.

lifetime supervision amounted to "parole after the expiration of his sentence." However, NRS 176.0931 requires the district court to impose a special sentence of lifetime supervision when a defendant is convicted of a sexual offense. Accordingly, we conclude that Dexter's guilty plea was not involuntary in this regard.

Finally, Dexter claimed that his guilty plea was involuntary because the collection of his DNA after the expiration of his sentence was unconstitutional. However, this court has previously held that such DNA collection meets constitutional muster.<sup>8</sup>

Next, Dexter argued that his counsel was ineffective for failing to inform him of his right to appeal and for failing to file an appeal. However, Dexter's signed plea agreement advised him of his limited right to appeal.<sup>9</sup> Further, counsel has a duty to perfect an appeal when the defendant expresses a desire to appeal or indicates dissatisfaction with a conviction.<sup>10</sup> Dexter carried the burden of informing his counsel that he wished to pursue an appeal.<sup>11</sup> Here, Dexter did not allege that his counsel refused to file an appeal upon his request or that he otherwise expressed to counsel his dissatisfaction with his conviction. Accordingly, we conclude that Dexter's claim is without merit.

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<sup>8</sup>See Gaines v. State, 116 Nev. 359, 998 P.2d 166 (2000).

<sup>9</sup>See Davis v. State, 115 Nev. 17, 19, 974 P.2d 658, 659 (1999).

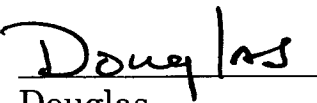
<sup>10</sup>Lozada v. State, 110 Nev. 349, 354, 871 P.2d 944, 947 (1994); see Davis, 115 at 20, 974 P.2d at 660.

<sup>11</sup>See Davis, 115 Nev. at 20, 974 P.2d at 660.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Dexter is not entitled to relief and that briefing and oral argument are unwarranted.<sup>12</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Jackie Glass, District Judge  
Charles Henry Dexter III  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>12</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).