

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM URAL NEEL A/K/A
WILLIAM U. NEEL, II,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49856

FILED

JAN 30 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant William Ural Neel's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Lee A. Gates, Judge.

On December 2, 2004, the district court convicted Neel, pursuant to a guilty plea, of one count of sexual assault with a minor under 16 years of age and one count of lewdness with a child under the age of 14. The district court sentenced Neel to serve a term of 15 to 40 years for sexual assault with a minor under the age of 16 and a concurrent sentence of life in prison with the possibility of parole after 10 years for lewdness with a child under the age of 14. Neel did not pursue a direct appeal.

On November 21, 2005, Neel filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. The district court appointed counsel. After conducting an evidentiary hearing, the district court denied the petition. This timely appeal followed.

Neel's sole issue on appeal is that the district court erred by denying his claim that counsel was ineffective for failing to inform him of the specific conditions of lifetime supervision. To state a claim of ineffective assistance of counsel sufficient to invalidate a judgment of conviction based on a guilty plea, a petitioner must demonstrate that counsel's performance fell below an objective standard of reasonableness, and that, but for counsel's errors, the petitioner would not have pleaded guilty and would have insisted on going to trial. See Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Warden v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984); see also Hill v. Lockhart, 474 U.S. 52, 58-9 (1985); Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996). The court can dispose of a claim if the petitioner makes an insufficient showing on either prong. Strickland, 466 U.S. at 697.

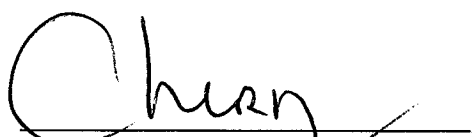
Neel failed to demonstrate that counsel was deficient or that he was prejudiced. Under Nevada law, the particular conditions of lifetime supervision are tailored to each individual case and, notably, are not determined until after a hearing is conducted just prior to the expiration of the sex offender's completion of a term of parole or probation, or release from custody. Palmer v. State, 118 Nev. 823, 827, 59 P.3d 1192, 1194-95 (2002); see also Johnson v. State, 123 Nev. ____, ____, 159 P.3d 1096, 1098 (2007). In light of the fact that the conditions of lifetime supervision applicable to a specific individual are not generally determined until long after the plea canvass, an advisement about those conditions is not a requisite of a valid guilty plea. Rather, all that is constitutionally required is that the totality of the circumstances demonstrates that Neel was aware that he would be subject to the


consequences of lifetime supervision before entry of the plea. Palmer, 118 Nev. at 831, 59 P.3d at 1197.

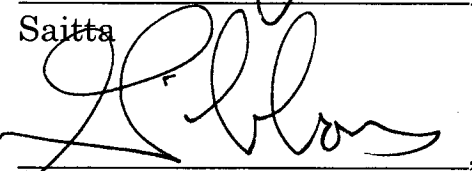
The plea agreement, which Neel signed, informed him that his sentence would include lifetime supervision “commencing after any period of probation or any term of imprisonment and period of release upon parole” and that the “special sentence of life lifetime supervision must begin upon release from incarceration.” Further, Neel acknowledged that he read the plea agreement and discussed all of the terms and conditions contained therein with counsel. Finally, at the evidentiary hearing on Neel’s post-conviction petition, counsel stated that it was her practice to explain what lifetime supervision meant and that the terms would not be determined until release from probation, imprisonment, or parole. Because Neel failed to demonstrate that counsel was deficient or prejudice, we conclude the district court did not err in denying this claim.

Having considered Neel’s claim and concluded that it lacks merit, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Lee A. Gates, District Judge
Eric A. Goodman
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk