

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSEPH DEFURIA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56333

FILED

MAR 17 2011

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

ORDER OF AFFIRMANCE

This is an appeal from orders of the district court denying appellant Joseph Defuria's post-conviction petition for a writ of habeas corpus and post-conviction motion to withdraw his guilty plea. Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

Defuria contends that the district court abused its discretion by finding that he did not demonstrate good cause and prejudice for the delay in filing his habeas petition. Defuria claimed that his petition was filed late because he did not learn that his "counsel wrongly advised him that lifetime supervision was synonymous with 'lifetime registration'" until his probation was reinstated. The district court conducted an evidentiary hearing and found that Defuria's petition was procedurally barred, his claim that defense counsel was ineffective did not constitute good cause to excuse the bar, his defense counsel was not ineffective, and his claim that defense counsel misrepresented the consequence of lifetime supervision was belied by the record and the testimony presented at the hearing. The district court's findings are supported by the record. Defuria did not demonstrate that an impediment external to the defense prevented him from complying with procedural default rules, see NRS 34.726(1);


Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003), therefore he has not shown that the district court abused its discretion by denying his untimely habeas petition.

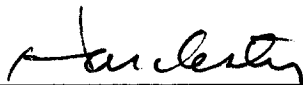
Defuria also contends that the district court abused its discretion by denying his post-conviction motion to withdraw his guilty plea. Defuria claims that he entered his plea without knowing the “actual consequences” of lifetime supervision. The district court heard argument on the motion; considered the testimony presented during the evidentiary hearing; determined that Defuria acted voluntarily, understood the nature of the charge, and acknowledged that he understood the consequences of the plea; and determined that Defuria failed to demonstrate manifest injustice. We conclude that the district court properly assessed the validity of Defuria’s guilty plea and claim of manifest injustice and that Defuria has failed to demonstrate that the district court abused its discretion. See NRS 176.165; Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986), holding limited on other grounds by Smith v. State, 110 Nev. 1009, 879 P.2d 60 (1994); Wilson v. State, 99 Nev. 362, 372-73, 664 P.2d 328, 334-35 (1983).

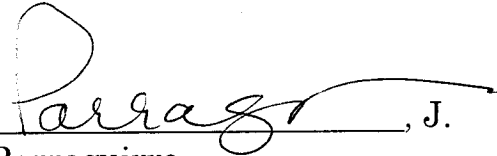
Finally, we decline Defuria’s invitation to expand our holding in Palmer v. State, 118 Nev. 823, 826-27, 59 P.3d 1192, 1194 (2002), by requiring that plea agreements inform defendants that a violation of the conditions of lifetime supervision is a felony and list the possible

conditions that may be imposed, see Johnson v. State, 123 Nev. 139, 143-44, 159 P.3d 1096, 1098 (2007), and we

ORDER the judgments of the district court AFFIRMED.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Elissa F. Cadish, District Judge
James J. Ruggeroli
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk