## IN THE SUPREME COURT OF THE STATE OF NEVADA

JESUS RENE GONZALEZ, Appellant, vs. THE STATE OF NEVADA, Respondent. No. 61276

## DEC 17 2013 TRAQUE K. LINDEMAN CLERX OF SUITERE COURT BY DEPUT

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## ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Appellant argues that the district court erred by concluding his plea was voluntarily entered. Appellant contends that he misunderstood the potential sentence because of a language barrier but believed, based on communications with his counsel, that he would be sentenced to 10 to 25 years if he entered into the guilty plea agreement. "[A] guilty plea is presumptively valid," and a petitioner carries "the burden of establishing that the plea was not entered knowingly and intelligently." *Hubbard v. State*, 110 Nev. 671, 675, 877 P.2d 519, 521 (1994). We will not reverse a district court's determination concerning the validity of a plea absent a clear abuse of discretion. *Id*.

The record reflects that the district court, through the use of an interpreter, canvassed appellant regarding the voluntary nature of his plea, the range of punishment, and the district court's discretion at sentencing. The record also reflects that the district court asked appellant if the plea agreement had been interpreted into Spanish for him and if he

SUPREME COURT OF NEVADA understood everything in it, to which appellant answered in the affirmative. Based on the foregoing, we conclude that the totality of the circumstances demonstrates appellant knowingly and voluntarily entered the plea agreement. See State v. Freese, 116 Nev. 1097, 1105, 13 P.3d 442, 448 (2000) (reaffirming that the totality of circumstances test is used in considering whether a plea is knowing and voluntary); see also Robles v. State, 91 Nev. 141, 143, 532 P.2d 1033, 1034 (1975) (holding that a plea was knowing and voluntary where there was no evidence to show that translation difficulties caused defendant any misunderstanding regarding his guilty plea). Accordingly, we conclude that the district court did not abuse its discretion by denying this claim, and we

ORDER the judgment of the district court AFFIRMED.

\_, C.J. herry Pickering Pickering J. J. Cherry Hardesty

cc: Hon. Michelle Leavitt, District Judge Carl E. G. Arnold Attorney General/Carson City Clark County District Attorney Eighth District Court Clerk