IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KURT ALEXANDER WINKELMANN-HERRER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68092

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of lewdness with a minor under the age of 14. Second Judicial District Court, Washoe County; David A. Hardy, Judge.

First, appellant Kurt Winkelmann-Herrer argues the imposition of a sentence of life in prison with the possibility of parole, coupled with the imposition of a sentence of lifetime supervision, violated the Double Jeopardy Clause. The lifetime-supervision statute evinces a legislative intent to impose cumulative punishments for a single offense, *see* NRS 176.0931(1), (2), and double jeopardy is not implicated where the state legislature "has clearly authorized multiple punishments for the same offense," *Jackson v. State*, 128 Nev. ___, ___, 291 P.3d 1274, 1278 (2012).

Next, Winkelmann-Herrer argues the lifetime-supervision statute, NRS 176.0931, is unconstitutional because (1) it enhances a defendant's sentence without a jury-finding on the facts supporting the enhancement, in violation of *Blakely v. Washington*, 542 U.S. 296 (2004), and *Apprendi v. New Jersey*, 530 U.S. 466 (2000); and (2) it infringes on Winkelmann-Herrer's constitutional right to travel and right to free

speech. First, lifetime supervision is not a sentencing enhancement that must be decided by a jury or fact-finder; rather it is an automatically imposed mandatory sentence for commission of various sexual offenses. *See* NRS 176.0931; *Palmer v. State*, 118 Nev. 823, 827, 59 P.3d 1192, 1194-95 (2002). Second, Winkelmann-Herrer's claim the lifetime-supervision conditions infringe on his right to travel and to free speech is not ripe for review on direct appeal, as he is serving a life sentence for his crime and the specific conditions of lifetime supervision will not be imposed until he is released from parole. *See Palmer*, 118 Nev. at 827, 59 P.3d at 1194-95.

Finally, Winkelmann-Herrer argues his plea was invalid because he was not properly informed or given notice regarding the imposition of lifetime supervision or its conditions. Winkelmann-Herrer did not challenge the validity of his plea below and we conclude this claim is not appropriate for review on direct appeal. Therefore, we decline to address it. *See Bryant v. State*, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986), *holding limited by Smith v. State*, 110 Nev. 1009, 1010 n.1, 879 P.2d 60, 61 n.1 (1994); *see also O'Guinn v. State*, 118 Nev. 849, 851-52, 59 P.3d 488, 489-90 (2002). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

_____, C.J.
Gibbons

_____, J.
Tao

_____, J.
Silver

cc: Hon. David A. Hardy, District Judge
Hardy Law Group
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk