

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LUIS FERNANDO SANNAR,
Appellant,
vs.
NATALIE WOOD, IN HER OFFICIAL
CAPACITY ONLY AS THE CHIEF OF
THE NEVADA DIVISION OF PAROLE
AND PROBATION; AND ADAM PAUL
LAXALT, ATTORNEY GENERAL OF
THE STATE OF NEVADA,
Respondents.

No. 73269

FILED

FEB 13 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Luis Fernando Sannar appeals from an order of the district court denying the postconviction petition for a writ of habeas corpus he filed on October 17, 2016. Second Judicial District Court, Washoe County; Lynne K. Simons, Judge.

Sannar claims the district court erred by denying his claim his plea should be withdrawn because it was not knowingly and voluntarily entered. Specifically, he claimed his plea was the result of an unlawful search because his lifetime supervision agreement wrongfully contained a search clause in violation of *McNeill v. State*, 132 Nev. ___, 375 P.3d 1022 (2016). Sannar claimed had he known the search was unlawful, and the evidence collected would have been suppressed, he would not have pleaded guilty and would have gone to trial.

The district court held an evidentiary hearing on the claim and found Sannar failed to demonstrate his plea should be withdrawn. Specifically, the district court concluded the officer acted in good faith when conducting the search of Sannar's home. At the time the search clause was

included in the lifetime supervision agreement, and at the time the search was conducted, *McNeill* had not been decided. Two Nevada Supreme Court cases, while not specifically endorsing the inclusion of search clauses in lifetime supervision agreements, acknowledged these provisions without stating they should not have been included. *See Palmer v. State*, 118 Nev. 823, 829, 59 P.3d 1192, 1196 (2002) (finding lifetime supervision is punitive and listing searches as a potential clause in a lifetime supervision agreement); *Coleman v. State*, 130 Nev. 190, 192-93, 321 P.3d 863, 865 (2014) (listed several conditions found in Coleman's lifetime supervision agreement which the court noted were in the agreement pursuant to the authority of the Board of Parole Commissioners under NRS 213.1243). Further, the purpose behind the exclusionary rule is to deter police misconduct and this purpose is not served where the law enforcement officers were acting in good faith reliance on the law as it existed at the time. *See Byars v. State*, 130 Nev. ___, ___, 336 P.3d 939, 946-47 (2014); *Davis v. United States*, 564 U.S. 229, 237-40 (2011).

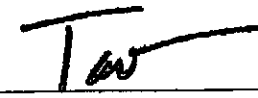
The district court concluded the search was properly conducted because the officers were acting in good faith reliance on the law as it existed at the time. The evidence discovered during the search would not have been excluded and Sannar failed to demonstrate his plea should be withdrawn. *See Bryant v. State*, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986); *see also Hubbard v. State*, 110 Nev. 671, 675, 877 P.2d 519, 521 (1994).


Substantial evidence supports the decision of the district court, and we conclude the district court did not abuse its discretion by denying

Sannar's petition.¹ *Hubbard*, 110 Nev. at 675, 877 P.2d at 521. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Lynne K. Simons, District Judge
Law Offices of Lyn E. Beggs, PLLC
Washoe County District Attorney
Attorney General/Carson City
Washoe District Court Clerk

¹To the extent Sannar argues the parole and probation officer lacked reasonable suspicion to enter his home, Sannar did not raise this claim in his petition below, and we decline to consider it for the first time on appeal. *McNelson v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999); *see also Barnhart v. State*, 122 Nev. 301, 304, 130 P.3d 650, 652 (2006) (stating "the district court is under no obligation to consider issues that are raised by a petitioner for the first time at an evidentiary hearing").