

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DARBY JOE NEAGLE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 81419-COA

**FILED**

**MAR 05 2021**

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

*ORDER OF AFFIRMANCE*

Darby Joe Neagle appeals from an order of the district court denying an amended postconviction petition for a writ of habeas corpus filed on May 8, 2020. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

Neagle argues the district court erred by denying his claim that his plea was not knowingly and voluntarily entered because he was not informed he would be losing his right to bear arms. He claimed the loss of the right to bear arms was a direct consequence of his plea and the Nevada Supreme Court adopted that view in *Andersen v. Eighth Judicial Dist. Court*, 135 Nev. 321, 448 P.3d 1120 (2019).

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). Further, this court will not reverse a district court's determination concerning the validity of a plea absent a clear abuse of discretion. *Id.* In determining the validity of a guilty plea, this court looks to the totality of the circumstances. *State v. Freese*, 116 Nev. 1097, 1105, 13 P.3d 442, 448 (2000).


To enter a knowing and voluntary plea, a defendant must have “a full understanding of . . . the direct consequences arising from a plea of guilty.” *Little v. Warden*, 117 Nev. 845, 849, 34 P.3d 540, 543 (2001). “A consequence is deemed ‘direct’ if it has ‘a definite, immediate and largely automatic effect on the range of the defendant’s punishment.’” *Id.* (quoting *Torrey v. Estelle*, 842 F.2d 234, 236 (9th Cir. 1988)). A collateral consequence is a consequence that is “not within the purview of the district court’s sentencing discretion.” *Id.* at 849 n.9, 34 P.3d at 543 n.9; *see also Nollette v. State*, 118 Nev. 341, 347-48, 46 P.3d 87, 91-92 (2002) (holding that “the revocation of a professional license is not a form of punishment imposed by the trial court” and, therefore, was a collateral consequence of the plea).

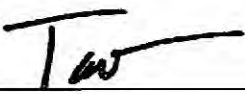
While the loss of the right to bear arms is automatic pursuant to statute, *see* NRS 202.360(1)(b), it is not within the district court’s sentencing discretion and is not imposed by the district court. Further, the loss of the right to bear arms does not immediately impact the range of punishment the defendant will serve. Therefore, the loss of the right to bear arms is a collateral consequence of a guilty plea. Accordingly, Neagle failed to demonstrate the loss of the right to bear arms was a direct consequence of his plea.

The Nevada Supreme Court’s holding in *Andersen* does not change this analysis. In *Andersen*, the Court determined that misdemeanor domestic battery was now a serious enough offense to warrant a jury trial because the Nevada State Legislature decided that a conviction for misdemeanor domestic battery would mean a loss of the convicted person’s right to bear arms. 135 Nev. at 321, 448 P.3d at 1122. *Anderson* did not address whether or not the loss of the right to bear arms was a direct

consequence of a guilty plea, and thus, Neagle's reliance on this case is misplaced. Therefore, we conclude the district court did not err by finding that the loss of the right to bear arms was not a direct consequence of the plea and did not abuse its discretion by denying Neagle's claim that his plea was not knowing and voluntary. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Chief Judge, Eighth Judicial District Court  
Eighth Judicial District Court Dept. 3  
Law Offices of John G. Watkins  
The Pariente Law Firm, P.C.  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk