IN THE SUPREME COURT OF THE STATE OF NEVADA

ALEXANDER SEVILLET,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 42527

FILED

JUN 25 2004

DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant Alexander Sevillet's post-conviction petition for a writ of habeas corpus.

On July 23, 2001, Sevillet entered an Alford plea[1] to one count of attempted sexual assault. The district court sentenced Sevillet to serve a prison term of 24 to 60 months. Sevillet did not file a direct appeal.

On June 25, 2002, Sevillet filed a proper person post-conviction petition for a writ of habeas corpus. The State opposed the petition. The district court appointed counsel to represent Sevillet, and counsel filed several supplements to the petition. The State filed responses to the supplements. After conducting an evidentiary hearing, the district court denied the petition.

Sevillet claims that his guilty plea was not knowing because, although he was aware that lifetime supervision would be imposed, he did not understand the specific consequences of that special sentence.[2] Citing to Palmer v. State, Sevillet argues that a guilty plea is unknowing unless

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[1]North Carolina v. Alford, 400 U.S. 25 (1970).

[2]We note that, in the fast track statement, Sevillet also argues that his sentence of lifetime supervision should be stricken, but thereafter concedes that "[a]t the final argument on these matters, the [district court] found Mr. Sevillet no longer wished to proceed with striking lifetime supervision." Because Sevillet abandoned this issue in the proceedings below, we decline to consider it.

the totality of the circumstances indicate that the defendant was advised about each particular condition of the lifetime supervision sentence.[3] We conclude that Sevillet's contention lacks merit.

Under Nevada law, the particular conditions of lifetime supervision are tailored to each individual case and, notably, are not determined until after a hearing is conducted just prior to the expiration of the sex offender's completion of a term of parole or probation, or release from custody.[4] In light of the fact that the conditions of lifetime supervision applicable to a specific individual are not generally determined until long after the plea canvass, we disagree with Sevillet that an advisement about those conditions is a requisite of a valid guilty plea. Rather, as we discussed in Palmer, all that is constitutionally required is that the totality of the circumstances demonstrate that a defendant was aware that he would be subject to the consequence of lifetime supervision before entry of the plea.[5] Here, Sevillet concedes that he was advised in the plea agreement that he would be subject to lifetime supervision. We therefore conclude that his contention regarding the validity of his Alford plea lacks merit.

In the petition, Sevillet also raised several claims of ineffective assistance of counsel. In particular, Sevillet argued that his trial counsel was ineffective for failing to: (1) advise him of his appellate rights; (2)

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[3]118 Nev. 823, 59 P.3d 1192 (2002).

[4]See NRS 213.1243(1); NAC 213.290.

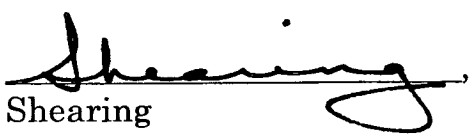
[5]118 Nev. at 831, 59 P.3d at 1197. We note that in Palmer this court recognized that under Nevada's statutory scheme, a defendant is provided with written notice and an explanation of the specific conditions of lifetime supervision that apply to him "[b]efore the expiration of a term of imprisonment, parole or probation." Id. at 827, 59 P.3d at 1194-95 (emphasis added).

raise objections and present evidence during the juvenile proceedings; and (3) investigate to discover exculpatory evidence, including the victim's motivation for falsely accusing Sevillet of sexual assault.

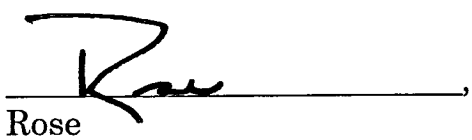
In the proceedings below, the district court found that counsel was not ineffective under the standard set forth in Strickland v. Washington.[6] The district court's factual findings regarding a claim of ineffective assistance of counsel are entitled to deference when reviewed on appeal.[7] Sevillet has not demonstrated that the district court's finding that trial counsel was not ineffective is not supported by substantial evidence or is clearly wrong. Moreover, Sevillet has not demonstrated that the district court erred as a matter of law.

Having considered Sevillet's contentions and concluded that they lack merit, we

ORDER the judgment of the district court AFFIRMED.



_____, C.J.
Shearing



_____, J.
Rose

_____, J.
Douglas

cc: Hon. Michael A. Cherry, District Judge
Hinds & Morey
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

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[6]466 U.S. 668 (1984).

[7]See Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994).