


IN THE SUPREME COURT OF THE STATE OF NEVADA

ZENDELL DESPENZA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56386

FILED

MAR 17 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

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

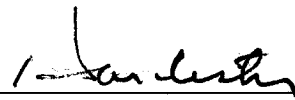
Appellant Zendell Despenza contends that the district court abused its discretion by finding that he was aware that lifetime supervision was a direct consequence of pleading guilty. Pursuant to Despenza v. State, Docket No. 53597 (Order Affirming in Part, Reversing in Part and Remanding, March 11, 2010), the district court conducted an evidentiary hearing to determine whether Despenza was aware of the lifetime supervision requirement when he entered his plea. The district court found that the plea canvass did not inform Despenza of the lifetime supervision requirement and Despenza's former defense counsel, Marc Picker, did not use the term "lifetime supervision" when informing Despenza of the consequences of pleading guilty. However, the district court further found that Picker discussed "the practical consequences of lifetime supervision," concluded that Despenza was informed of the lifetime supervision consequence before entering his plea, and denied Despenza's habeas petition.

We have reviewed the written plea agreement and the transcripts of the plea canvass and evidentiary hearing and conclude that the totality of the circumstances indicate that, although he was aware that he would have to register as a sex offender, Despenza was unaware that he would be supervised for the rest of his life as a direct consequence of his plea. See Palmer v. State, 118 Nev. 823, 831, 59 P.3d 1192, 1197 (2002). Accordingly, we conclude that the district court abused its discretion in determining that the guilty plea was valid. See Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986). We therefore

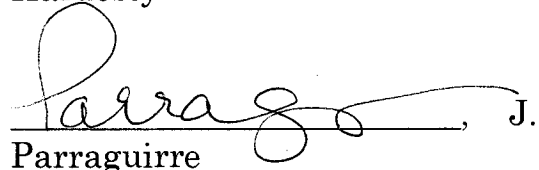
ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court so that Despenza may be given the option of withdrawing his guilty plea.



_____, J.
Saitta



_____, J.
Hardesty



_____, J.
Parraguirre

cc: Hon. Doug Smith, District Judge
The Law Office of Dan M. Winder, P.C.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk