



for the parole revocation were absconding from parole supervision and failure to comply with other conditions of his parole agreement. Alvillar requests this court to consider, for the first time on appeal, a claim that counsel in the parole revocation proceedings was ineffective because his guilty plea was allegedly not taken in compliance with rule 11 of the Utah Rules of Criminal Procedure. We decline to consider this claim for the first time on appeal. "As a general rule, appellate courts will not consider an issue, including a constitutional argument, raised for the first time on appeal unless the trial court committed plain error or the case involves exceptional circumstances." State v. Brown, 856 P.2d 358, 359 (Utah Ct. App. 1993). Similarly, to the extent that Alvillar seeks permission to raise claims that counsel appointed to represent him only in connection with his petition for extraordinary relief was ineffective, we do not consider that claim because the proceedings were civil in nature and no right to effective assistance of counsel attached to them. See Davis v. Grand County Serv. Area, 905 P.2d 888, 894 (Utah Ct. App. 1995) ("The doctrine of ineffective assistance of counsel arises out of the Sixth Amendment to the United States Constitution and has no parallel in the civil context."). Accordingly, we also deny the Board's request to file an additional response to address the newly raised issues.

We next consider whether the district court was correct in dismissing the due process claims in the petition for extraordinary relief. The Board correctly notes that judicial review of the actions of the Board is limited to the "process by which the Board undertakes its sentencing function." Padilla v. Board of Pardons, 947 P.2d 664, 671 (Utah 1997)(emphasis in original); see also Utah Code Ann. § 77-27-5(3) (2003) ("Decisions of the board in cases involving paroles . . . are final and are not subject to judicial review."). To the extent that Alvillar challenges the substance of the decision to revoke his parole, the district court correctly dismissed those challenges as beyond the scope of its review. The district court also did not err in dismissing the constitutional challenge to the Board's statutory authority to issue an arrest warrant to retake a parolee. This issue was determined by the Utah Supreme Court, which held that statutory provisions allowing the Board to issue arrest warrants are constitutional. See Jones v. Board of Pardons, 2004 UT 53, ¶¶36,42, 94 P.3d 283 (holding the Board may constitutionally issue arrest warrants to retake parolees believed to have violated parole). Alvillar asserts, for the first time on appeal, that the arrest warrant in this case was not based on probable cause, relying upon other analysis in Jones. See id. at ¶¶43-46. We do not consider this claim because it is raised for the first time on appeal and because it was waived by his no contest pleas to the parole violations.

The district court found that Alvillar entered an unconditional no contest plea to all five parole violations alleged in the parole violation report. The district court concluded that Alvillar had "waived all non-jurisdictional defects, including his alleged pre-plea constitutional violations." Accordingly, the district court held that Alvillar waived his due process claims alleging that the Board failed to (1) hold a preliminary hearing to determine whether probable cause supported the parole violation proceedings and the Board's warrant and (2) conduct a final hearing within a reasonable time. By pleading no contest to each violation, Alvillar waived any claim that he was denied procedural due process in the parole revocation proceedings. See State v. Parsons, 781 P.2d 1275, 1278 (Utah 1989) ("[B]y pleading guilty, the defendant is deemed to have admitted all of the essential elements of the crime charged and thereby waives all nonjurisdictional defects."); State v. Smith, 833 P.2d 371, 372 (Utah Ct. App. 1992) ("A voluntary plea of guilty or no contest constitutes a waiver of right to appeal all nonjurisdictional issues.").

We affirm the decision of the district court. We deny Alvillar's request to consider issues raised for the first time on appeal and the Board's motion to file an additional response.

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James Z. Davis, Judge

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Pamela T. Greenwood, Judge

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William A. Thorne Jr., Judge