

IN THE SUPREME COURT OF THE STATE OF NEVADA

FREDRICK DEON WORDLAW A/K/A  
FREDERICK DEON WORDLAW,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 43747

FILED

NOV 29 2004

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

On March 24, 2004, the district court convicted appellant, pursuant to a guilty plea, of one count each of robbery and battery with the use of a deadly weapon. The district court sentenced appellant to serve a term of 24 to 72 months in the Nevada State Prison for the robbery conviction and a consecutive term of 26 to 120 months for the battery conviction. This court affirmed the judgment of conviction and sentence on appeal.<sup>1</sup> The remittitur issued on October 5, 2004.

On March 26, 2004, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to

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<sup>1</sup>Wordlaw v. State, Docket No. 43106 (Order of Affirmance, September 7, 2004).

conduct an evidentiary hearing. On July 9, 2004, the district court denied appellant's petition. This appeal followed.

In his petition, appellant raised several claims of ineffective assistance of counsel. To state a claim of ineffective assistance of counsel sufficient to invalidate a guilty plea, a petitioner must demonstrate that counsel's performance fell below an objective standard of reasonableness.<sup>2</sup> A petitioner must further establish "a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial."<sup>3</sup> The court can dispose of a claim if the petitioner makes an insufficient showing on either prong.<sup>4</sup>

Appellant claimed that his counsel was ineffective for: (1) failing to investigate and introduce possible witnesses; (2) failing to move to suppress certain statements or challenge witness credibility; (3) failing to investigate the crime and examine physical and exculpatory evidence; (4) failing to file pre-trial motions to challenge the chain of custody of the evidence; (5) failing to investigate a possible defense; (6) failing to obtain fingerprint analysis reports, photographs, or any other physical or documentary evidence; and (7) failing to obtain all exculpatory evidence from the State. Appellant failed to provide any support whatsoever for any of these allegations.<sup>5</sup> Further, appellant failed to demonstrate what

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<sup>2</sup>See Strickland v. Washington, 466 U.S. 668 (1984); Warden v. Lyons, 100 Nev. 430, 683 P.2d 504 (1984).

<sup>3</sup>Hill v. Lockhart, 474 U.S. 52, 59 (1985); see also Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996).

<sup>4</sup>Strickland, 466 U.S. at 697.

<sup>5</sup>See Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984).

information would have been discovered with further investigation that would have altered his decision to enter a guilty plea. Accordingly, we conclude that the district court did not err in denying these claims.

Next, appellant alleged that his counsel was ineffective due to a conflict of interest. Appellant alleged that his counsel's recommendation to take the plea created a conflict of interest because the recommendation dissuaded appellant from pursuing possible defenses. "On appeal, this court will not second-guess an attorney's tactical decisions where they relate to trial strategy and are within the attorney's discretion."<sup>6</sup> Appellant received a substantial benefit by pleading guilty. In exchange for pleading guilty to robbery and battery with the use of a deadly weapon, appellant avoided a second deadly weapon enhancement. Appellant faced significantly more time if he went to trial and was convicted of all of the charged offenses. Further, in the plea agreement and at the plea canvass, appellant indicated that entering a guilty plea was in his best interest. Appellant has failed to demonstrate that counsel's advice created a conflict of interest. Accordingly, we conclude that the district court did not err in denying this claim.

Finally, appellant alleged that his counsel was ineffective for failing to communicate with him. Appellant alleged that his counsel never met with him to discuss defense plans. Appellant has failed to provide any support for this allegation.<sup>7</sup> Accordingly, we conclude that the district court did not err in denying this claim.

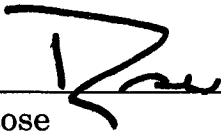
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<sup>6</sup>Davis v. State, 107 Nev. 600, 603, 817 P.2d 1169, 1171 (1991); see Wilson v. State, 99 Nev. 362, 372, 664 P.2d 328, 334 (1983).

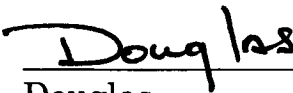
<sup>7</sup>Hargrove, 100 Nev. at 502, 686 P.2d at 225.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.<sup>8</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Douglas

cc: Hon. Donald M. Mosley, District Judge  
Fredrick Deon Wordlaw  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>8</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).