

IN THE SUPREME COURT OF THE STATE OF NEVADA

ARMANDO TORRES GONZALES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44018

FILED

JAN 20 2005

ORDER OF AFFIRMANCE

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

This is a proper person appeal from an order of the district court dismissing appellant Armando Gonzales' post-conviction petition for a writ of habeas corpus. Fifth Judicial District Court, Nye County; John P. Davis, Judge.

On December 5, 2002, the district court convicted Gonzales, pursuant to a jury verdict, of battery with the use of a deadly weapon. The district court sentenced Gonzales to serve a term of 40 to 100 months in the Nevada State Prison. This court affirmed Gonzales' judgment of conviction and sentence on appeal.¹ The remittitur issued on July 1, 2003.

On March 8, 2004, Gonzales 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 Gonzales or to conduct an evidentiary hearing. On August 13, 2004, the district court dismissed Gonzales' petition. This appeal followed.

¹Gonzales v. State, Docket No. 40781 (Order of Affirmance, June 6, 2003).

In his petition, Gonzales raised a claim of ineffective assistance of trial counsel. To state a claim of ineffective assistance of trial counsel sufficient to invalidate a judgment of conviction, a petitioner must demonstrate that counsel's performance fell below an objective standard of reasonableness.² A petitioner must further establish a reasonable probability that, in the absence of counsel's errors, the results of the proceedings would have been different.³ The court can dispose of a claim if the petitioner makes an insufficient showing on either prong.⁴

Gonzales alleged that his trial counsel was ineffective for failing to investigate evidence that would have exonerated him. However, Gonzales did not specify what additional investigation his trial counsel should have conducted.⁵ Because Gonzales did not adequately support this claim, the district court did not err in denying him relief.

Next, Gonzales argued that: (1) the district court erred in permitting the jury to correct an inconsistent verdict before they were discharged; and (2) the district court discriminated against him and simply wanted him "out of the way." These claims are outside the scope of a post-conviction petition for a writ of habeas corpus and should have been raised on direct appeal.⁶ Therefore, we affirm the district court's denial of these claims.

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

³Id.

⁴Strickland, 466 U.S. at 697.

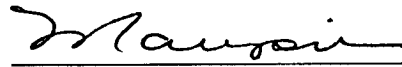
⁵See Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984).

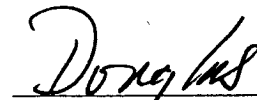
⁶See NRS 34.810(1)(b)(2).

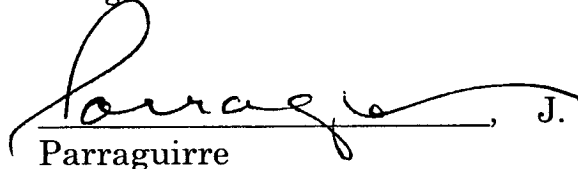
Lastly, Gonzales claimed that: (1) he was denied an impartial jury of his peers; and (2) the district court abused its discretion in refusing to enforce a post-verdict plea agreement. However, this court already considered and rejected these contentions on direct appeal. The doctrine of the law of the case prevents further litigation of these issues and "cannot be avoided by a more detailed and precisely focused argument."⁷ Thus, the district court did not err in denying these claims.

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

ORDER the judgment of the district court AFFIRMED.


_____, J.
Maupin


_____, J.
Douglas


_____, J.
Parraguirre

cc: Hon. John P. Davis, District Judge
Armando Torres Gonzales
Attorney General Brian Sandoval/Carson City
Nye County District Attorney/Tonopah
Nye County Clerk

⁷Hall v. State, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975)

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