IN THE SUPREME COURT OF THE STATE OF NEVADA

MILTON PLUMMER, Appellant, vs. THE STATE OF NEVADA, Respondent.	No. 44619
MILTON PLUMMER, Appellant, vs. THE STATE OF NEVADA, Respondent.	No. 44621

FILED

JUN 14 2005

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

These are consolidated appeals from an order of the district court denying appellant Milton Plummer's post-conviction petitions for writs of habeas corpus. Second Judicial District Court, Washoe County; James W. Hardesty, Judge.

On August 23, 2002, Plummer was convicted, pursuant to guilty pleas, in two cases. In district court case no. CR012427, Plummer was convicted of one count each of robbery with the use of a deadly weapon and burglary with the use of a deadly weapon. In district court case no. CR012499, Plummer was convicted of two counts of robbery with the use of a deadly weapon and one count of burglary with the use of a deadly weapon. Prior to sentencing, Plummer filed a motion to withdraw the guilty pleas in the district court. Plummer contended that his pleas were not entered knowingly, intelligently, and voluntarily. Specifically, Plummer argued that the coercive nature of the "package deal" pleas, made in conjunction with his codefendant, rendered the pleas invalid. The

district court appointed new counsel to represent Plummer, conducted an evidentiary hearing, and denied Plummer's motion.

Accordingly, in district court case no. CR012427, the district court sentenced Plummer to serve two consecutive prison terms of 72-180 months for the robbery, and a concurrent prison term of 72-180 months for the burglary, and ordered him to pay $1,300.00 in restitution. In district court case no. CR012499, the district court sentenced Plummer to serve five consecutive prison terms of 72-180 months and ordered him to pay $4,151.91 in restitution. The sentences in district court case no. CR012499 were ordered to run consecutively to the sentences imposed in district court case no. CR012427. On direct appeal, Plummer challenged the validity of his guilty pleas. This court, however, affirmed the judgments of conviction.[1] The remittiturs were issued on August 5, 2003.

On October 6, 2003, Plummer filed proper person post-conviction petitions for writs of habeas corpus in the district. In his petitions, Plummer alleged that he received ineffective assistance of counsel, and once again, that his guilty pleas were invalid. The district court appointed counsel to represent Plummer, conducted an evidentiary hearing, and on January 19, 2005, denied Plummer's petitions. In its order, the district court concluded that Plummer's pleas were entered knowingly, voluntarily, and intelligently, and that he received the effective assistance of counsel "in all district court proceedings" and on direct appeal. This timely appeal followed.

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[1]See Plummer v. State, Docket Nos. 40170 & 40185 (Order of Affirmance, July 9, 2003).

Plummer contends that the district court abused its discretion in denying his habeas petitions because his guilty pleas were not entered intelligently. Specifically, Plummer once again argues that he should be allowed to withdraw his pleas, but this time because "he did not read the guilty plea memorandum" and "he had a learning disability that confounded his ability to understand the terms of his negotiations." We conclude that the district reached the right result in denying Plummer's petitions, albeit for the wrong reasons.[2]

An order denying a presentence motion to withdraw a guilty plea is reviewable on direct appeal from the judgment of conviction as an intermediate order in the proceedings.[3] This court has stated repeatedly that "claims that are appropriate for a direct appeal must be pursued on direct appeal, or they will be considered waived in subsequent proceedings."[4] Moreover, a habeas petitioner must demonstrate good

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[2]See Wyatt v. State, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) ("If a judgment or order of a trial court reaches the right result, although it is based on an incorrect ground, the judgment or order will be affirmed on appeal.").

[3]See NRS 177.045; Hart v. State, 116 Nev. 558, 562 n.2, 1 P.3d 969, 971 n.2 (2000) (citing Hargrove v. State, 100 Nev. 498, 502 n.3, 686 P.2d 222, 225, n.3 (1984)).

[4]See Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994), overruled on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999); see also State v. Bennett, 119 Nev. 589, 606, 81 P.3d 1, 11 (2003).

cause and prejudice for raising claims which could have been raised in earlier proceedings.[5]

In this case, Plummer appropriately raised issues relating to his presentence motions to withdraw his guilty pleas on direct appeal. In his habeas petitions, Plummer sought "an undeserved second bite from the district court's apple."[6] Additionally, Plummer's contention that "he did not read the guilty plea memorandum" and "he had a learning disability" was not raised in his presentence motions. Plummer has not argued that any good cause and prejudice exists for his failure to raise such claims in the earlier proceedings. The district court denied Plummer's petitions on the merits, however, we conclude that Plummer waived his right to once again challenge the validity of his guilty pleas by failing to pursue the specific matter in the earlier proceedings. And finally, to the extent that Plummer implies that his pleas were invalid due to ineffective assistance of counsel, we note that Plummer has not offered any argument, let alone demonstrated, that the district court's findings of fact are not supported by substantial evidence or are clearly wrong.[7] Moreover, Plummer has not demonstrated that the district court erred as a matter of law.[8]

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[5]See NRS 34.810(3).

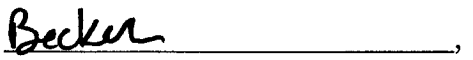
[6]Butler v. State, 120 Nev. ___, ___, 102 P.3d 71, 90 (2004) (Gibbons, J., concurring in part and dissenting in part).

[7]See generally Maresca v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) ("It is appellant's responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court.").

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

Accordingly, we

ORDER the judgment of the district court AFFIRMED.[9]



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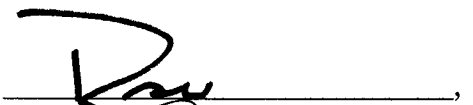

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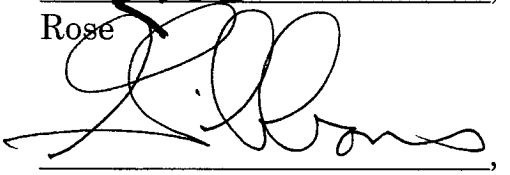

_____, J.
Gibbons

cc: Second Judicial District Court Dept. 9, District Judge
Scott W. Edwards
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

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[9]Because Plummer is represented by counsel in this matter, we decline to grant him permission to file documents in proper person in this court. See NRAP 46(b). Accordingly, the clerk of this court shall return to Plummer unfiled all proper person documents he has submitted to this court in this matter.