

IN THE SUPREME COURT OF THE STATE OF NEVADA

CECIL BRUINSMA,
Appellant,
vs.
WARDEN, NEVADA STATE PRISON,
DON HELLING,
Respondent.

No. 44684

FILED

JUL 01 2005

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant's post-conviction petition for a writ of habeas corpus. Fourth Judicial District Court, Elko County; J. Michael Memeo, Judge.

The criminal charges in this case arose when appellant Cecil Bruinsma, while heavily intoxicated, stabbed his developmentally-disabled sister 21 times in the face with a knife. When the police arrived and commented that the victim needed medical help, Bruinsma told them: "let her die." The State charged Bruinsma with numerous criminal charges, including attempted murder with the use of a deadly weapon. Thereafter, Bruinsma entered into plea negotiations with the State, and on November 18, 2003, Bruinsma was convicted, pursuant to a guilty plea, of one count of attempted murder. The district court sentenced Bruinsma to serve a prison term of 6 to 15 years. Bruinsma did not file a direct appeal.

On July 7, 2004, Bruinsma filed a proper person post-conviction petition for a writ of habeas corpus. The State opposed the petition. The district court appointed counsel to represent Bruinsma, and counsel filed a supplement to the petition and a response to the opposition.

After conducting an evidentiary hearing, the district court denied the petition. Bruinsma filed this timely appeal.

Bruinsma contends that the district court erred in denying his petition because his trial counsel was ineffective and his guilty plea was involuntary and unknowing. In particular, Bruinsma alleges that his trial counsel coerced the guilty plea by informing Bruinsma that he would lose at trial and would likely receive a sentence of 16 years in prison. Bruinsma also alleges that, in entering the guilty plea, he was confused about whether he would receive probation.

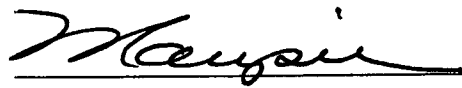
In this case, the district court rejected Bruinsma's claims, ruling that his guilty plea was knowing and voluntary and that his trial counsel was not ineffective with regard to the plea. We conclude that the district court's findings are supported by substantial evidence.¹ In particular, the record reveals that Bruinsma entered his guilty plea with full knowledge of the sentencing consequences of the charged crime. He was informed by the district court and in the written plea agreement that the State was agreeing to a stipulated sentence of 6 to 15 years and there is no indication that Bruinsma was promised, or misinformed about, probation. Moreover, the record indicates that Bruinsma was thoroughly canvassed by the district court with respect to the voluntariness of the guilty plea. Before pleading guilty, Bruinsma advised the district court that: (1) he was pleading guilty because it was in his best interest; (2) no one had threatened him or made any promises in order to get him to plead guilty; and (3) he had adequate time to consult with his attorney. Finally, at the post-conviction evidentiary hearing, defense counsel Frederick

¹See Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994).

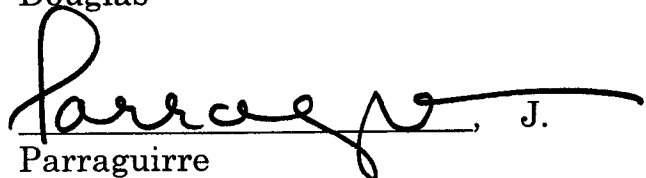
Howard Leeds testified that he recommended that Bruinsma accept the plea agreement because the likelihood of prevailing at trial "seemed remote" given the evidence presented at the preliminary hearing, including the physical evidence, the victim's testimony, and the police officer's testimony that Bruinsma told them to "let [the victim] die." Leeds also testified that he did not coerce Bruinsma to enter a plea, but instead advised him that if he went to trial he risked an overall maximum sentence of 16 to 40 years if he was convicted of the greater offense of attempted murder with the use of a deadly weapon. Bruinsma has failed to show that the district court's findings with the respect to the validity of his plea are not supported by substantial evidence or are clearly wrong. Accordingly, we conclude that the district court did not err in denying Bruinsma's petition.

Having considered Bruinsma's contentions and concluded that they lack merit, we

ORDER the judgment of the district court AFFIRMED.

 J.
Maupin

 J.
Douglas

 J.
Parraguirre

cc: Hon. J. Michael Memeo, District Judge
Matthew J. Stermitz
Attorney General Brian Sandoval/Carson City
Elko County District Attorney
Elko County Clerk