

IN THE SUPREME COURT OF THE STATE OF NEVADA

ENRIQUE VILLEGAS-CAMACHO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44736

FILED

MAY 19 2005

ORDER OF AFFIRMANCE

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

This is a proper person appeal from an order of the district court dismissing a post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge.

On September 10, 2004, the district court convicted appellant, pursuant to a guilty plea, of one count of trafficking in a controlled substance (low level) and one count of trafficking in a controlled substance (high level). The district court sentenced appellant to serve a term of ten to twenty-five years in the Nevada State Prison and a concurrent term of twelve to thirty-six months. No direct appeal was taken.

On December 10, 2004, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On February 3, 2005, the district court dismissed appellant's petition. This appeal followed.

In his petition, appellant claimed that he received ineffective assistance of counsel. To state a claim of ineffective assistance of counsel sufficient to invalidate a judgment of conviction based on a guilty plea, a petitioner must demonstrate that his counsel's performance fell below an

objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, petitioner would not have pleaded guilty and would have insisted on going to trial.¹ The court can dispose of a claim if the petitioner makes an insufficient showing on either prong.²

First, appellant claimed that his trial counsel was ineffective for failing to secure a jury trial as requested. He further claimed that he was manipulated, "beaten and pressured" into accepting the plea because he was informed that he would not get a fair trial. We conclude that appellant failed to demonstrate that his trial counsel's performance was deficient or that he was prejudiced. Appellant was informed in the guilty plea agreement and during the plea canvass that he waived his right to a jury trial by entry of his guilty plea. The district court specifically informed appellant during the plea canvass that he did not have to enter a guilty plea and he indicated that he understood. Appellant affirmatively indicated in the written guilty plea agreement and during the plea canvass that he was not entering his plea under any threats or coercion. Therefore, we conclude that he failed to demonstrate that his trial counsel was ineffective in this regard.

Next, appellant claimed that his guilty plea was not entered voluntarily because the interpreter informed him that he would get probation and be sent back to Mexico if he accepted the guilty plea. We conclude that appellant failed to carry his burden of demonstrating that

¹See Hill v. Lockhart, 474 U.S. 52 (1985); Kirksey v. State, 112 Nev. 980, 923 P.2d 1102 (1996).

²Strickland v. Washington, 466 U.S. 668, 697 (1984).

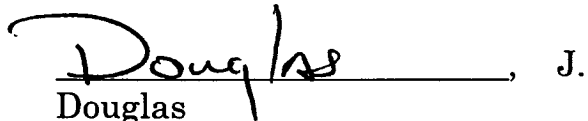
his guilty plea was not entered voluntarily.³ Appellant indicated in the guilty plea agreement and during the plea canvass that he had not received any promises in exchange for his plea. Appellant was informed during the plea canvass of the potential penalties he faced by entry of his plea. Appellant was specifically informed that probation was only available if certain conditions were met. The written plea agreement, which appellant and the interpreter signed, indicated that probation was available only if the district court determined that appellant met the provisions of NRS 453.3405. Therefore, we conclude that the district court properly determined that this claim was without merit.

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.⁴ Accordingly, we

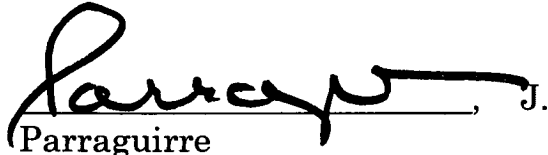
ORDER the judgment of the district court AFFIRMED.

 J.

Maupin

 J.

Douglas

 J.

Parraguirre

³Bryant v. State, 102 Nev. 268, 721 P.2d 364 (1986); see also Hubbard v. State, 110 Nev. 671, 877 P.2d 519 (1994).

⁴See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

cc: Hon. Steven R. Kosach, District Judge
Enrique Villegas-Camacho
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk