

IN THE SUPREME COURT OF THE STATE OF NEVADA

JASON MARCUS JONES,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 44737

**FILED**

SEP 23 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. R. [Signature]*  
CHIEF DEPUTY CLERK

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

On October 2, 2001, Jones was convicted, pursuant to a guilty plea, of one count of robbery with the use of a deadly weapon. The district court sentenced Jones to serve two consecutive prison terms of 48-120 months and ordered him to pay \$229.25 in restitution. On direct appeal, this court affirmed the judgment of conviction and sentence.<sup>1</sup>

On September 16, 2002, Jones filed a proper person post-conviction petition for a writ of habeas corpus in the district court. Counsel for Jones filed supplemental points and authorities in support of his petition. The State opposed the petition. Without conducting an evidentiary hearing, the district court dismissed Jones' petition. The

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<sup>1</sup>See Jones v. State, Docket No. 38659 (Order of Affirmance, January 4, 2002). The remittitur issued on January 30, 2002.

district court entered an order dismissing Jones' petition on February 3, 2005. This timely appeal followed.

Jones contends that: (1) the district court erred in rejecting his claim that there was insufficient evidence of his guilt; and (2) the prosecutor failed in his duty "to vindicate the truth and to administer justice." In his petition below, Jones essentially claimed that subsequent criminal charges instituted against the victim in this case demonstrated that Jones was innocent of the instant offense and undermined the validity of the State's prosecution against him. Specifically, Jones' arguments were premised on the fact that less than two months after Jones committed the robbery at issue in this appeal, the victim in Jones' case was convicted of embezzlement after he staged a robbery at the same Walgreen's Drug Store that Jones robbed. The district court considered the merits and rejected Jones' contentions, concluding that the subsequent incident involving the victim was completely separate from the robbery committed by Jones and that Jones was aware of that incident at the time he entered his plea.

We conclude that the district correctly determined that the subsequent incident involving the victim did not undermine the validity of Jones' guilty plea or the State's decision to prosecute Jones. The entry of a guilty plea waives any right to appeal from events occurring prior to the entry of the plea.<sup>2</sup> "[A] guilty plea represents a break in the chain of events which has preceded it in the criminal process. . . . [A defendant] may not thereafter raise independent claims relating to the deprivation of

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<sup>2</sup>See Webb v. State, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975).

constitutional rights that occurred prior to the entry of the guilty plea.”<sup>3</sup> Therefore, these claims did not entitle Jones to relief.

Next, Jones contends that the district court erred in rejecting his claim that he received ineffective assistance of counsel. Jones argues that counsel was ineffective for failing to investigate, prepare, object to prosecutorial misconduct, and move to withdraw his guilty plea. Jones also claims that his guilty plea was not entered voluntarily and intelligently as a result of ineffective assistance of counsel. We disagree.

Again in the proceedings below, Jones' claims in this respect were premised on the facts surrounding the subsequent criminal proceedings instituted against the victim in this case. The district court found that those events did not cast doubt on the effectiveness of Jones' counsel or the voluntary and intelligent entry of Jones' plea.<sup>4</sup> Moreover, the district court concluded that Jones could not demonstrate the requisite prejudice arising from his counsel's conduct, *i.e.*, that but for the alleged errors, Jones would not have pleaded guilty and would have insisted on going to trial. On appeal, Jones has not demonstrated that the district court erred as a matter of law in rejecting these claims without conducting an evidentiary hearing.<sup>5</sup>

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<sup>3</sup>Id. (quoting Tollett v. Henderson, 411 U.S. 258, 267 (1973)).


<sup>4</sup>See Strickland v. Washington, 466 U.S. 668 (1984); Warden v. Lyons, 100 Nev. 430, 683 P.2d 504 (1984); see also Hill v. Lockhart, 474 U.S. 52 (1985); Kirksey v. State, 112 Nev. 980, 923 P.2d 1102 (1996).

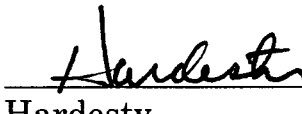
<sup>5</sup>See NRS 34.770; Mann v. State, 118 Nev. 351, 354-55, 46 P.3d 1228, 1230 (2002); Hargrove v. State, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

Having considered Jones' contentions and concluded that they are without merit, we

ORDER the judgment of the district court AFFIRMED.

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

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Hardesty

cc: Hon. Steven R. Kosach, District Judge  
Charles C. Diaz  
Attorney General Brian Sandoval/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk