

IN THE SUPREME COURT OF THE STATE OF NEVADA

IRAKLI PEIKRISHVILI A/K/A IRAKLI
PEIKEISHVILI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44853

FILED

SEP 23 2005

ORDER OF AFFIRMANCE

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

This is an appeal from an order of the district court denying appellant Irakli Peikrishvili's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge.

On July 21, 2004, Peikrishvili was convicted, pursuant to a guilty plea, of one count of attempted grand larceny. Peikrishvili was initially charged by way of a criminal complaint with two counts of burglary, four counts of grand larceny, and one count of conspiracy to commit grand larceny. The district court sentenced Peikrishvili to a prison term of 12-48 months, suspended execution of the sentence, and placed him on probation for an indeterminate period of time not to exceed five years. The district court also ordered Peikrishvili to pay \$5,625.60 in

restitution and \$1,106.84 in extradition fees. Peikrishvili's direct appeal from the judgment of conviction and sentence was rejected by this court.¹

On January 26, 2005, Peikrishvili, with the assistance of counsel, filed a post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. The district court conducted a hearing and on March 7, 2005, entered an order denying Peikrishvili's petition. This timely appeal followed.

First, Peikrishvili contends that he received ineffective assistance of counsel. Peikrishvili argues that counsel was ineffective for failing to inform the district court about the "severe consequences" of a felony conviction, specifically, his certain deportation. We disagree.

The district court found that Peikrishvili's counsel was not ineffective.² The district court's factual findings are entitled to deference when reviewed on appeal.³ In his appeal, Peikrishvili has not demonstrated, let alone even alleged, that the district court's findings of fact are not supported by substantial evidence or are clearly wrong. Moreover, Peikrishvili has not demonstrated or alleged that the district court erred as a matter of law. Accordingly, we conclude that the district

¹Peikrishvili v. State, Docket No. 43758 (Order of Affirmance, May 4, 2005).

²See 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).

³See Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994).

court did not err in rejecting Peikrishvili's claim of ineffective assistance of counsel.⁴

Second, Peikrishvili contends that the district court abused its discretion at sentencing by relying on highly suspect and "invalid" evidence. We will not address this argument for several reasons: (1) Peikrishvili did not raise this claim as grounds for relief in his habeas petition, and therefore, it has not been preserved for review on appeal from the district court's order;⁵ (2) this issue is not appropriately raised in a post-conviction habeas petition;⁶ and finally, (3) this court rejected the

⁴See Barajas v. State, 115 Nev. 440, 991 P.2d 474 (1999). In Barajas, this court stated:

[T]rial court's failure to advise a defendant of the possible immigration consequences of a guilty plea does not render the plea involuntary. Similarly, trial counsel's failure to provide such information does not fall below an objective standard of reasonableness and, thus, does not rise to the level of ineffective assistance of counsel.

Id. at 442, 991 P.2d at 476 (citations omitted).

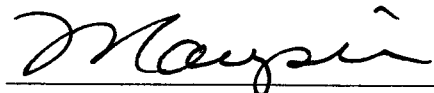
⁵See Davis v. State, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991), overruled on other grounds by Means v. State, 120 Nev. ___, 103 P.3d 25 (2004).

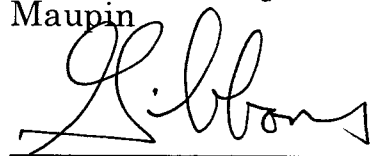
⁶See Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994), overruled on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999).

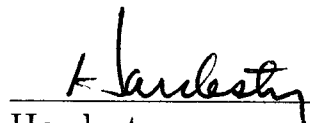
exact same argument raised in Peikrishvili's direct appeal, and thus, the doctrine of the law of the case prevents further litigation of this issue.⁷

Having considered Peikrishvili's contentions and concluded that they are either without merit or not properly raised, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Maupin


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Stewart L. Bell, District Judge
Xavier Gonzales
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

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