

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOEL ULLYOTT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45666

FILED

NOV 16 2005

ORDER OF AFFIRMANCE

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

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

On December 16, 2004, the district court convicted appellant, pursuant to a guilty plea, of one count of sexual assault and one count of willfully endangering a child, as the result of child abuse. The district court sentenced appellant to serve concurrent terms of ten to twenty-five years in the Nevada State Prison for the sexual assault and twelve months for the willfully endangering a child. The district court also imposed a special sentence of lifetime supervision. No direct appeal was taken.

On April 14, 2005, 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 June 20, 2005, the district court dismissed appellant's petition. This appeal followed.

Appellant contended his counsel was ineffective for failing to inform him of his right to appeal his conviction. In dismissing appellant's

petition, the district court found that the two guilty plea agreements appellant signed notified him of his limited right to appeal. We disagree. Our review of the record on appeal reveals that the two agreements contain only the following language relating to appeal:

I understand that I have the right to appeal from adverse rulings on pretrial motions only if the State and the Court consent to my right to appeal. In the absence of such an agreement, I understand that any substantive or procedural pretrial issue or issues which could have been raised at trial are waived by my plea.

This language only advised appellant of his right to appeal adverse determinations on pretrial motions pursuant to NRS 174.035(3). It did not advise appellant of his right to appeal based on reasonable constitutional, jurisdictional or other grounds that challenge the legality of the proceedings pursuant to NRS 177.015(4).¹

Nevertheless, we conclude the district court reached the correct result in dismissing appellant's petition. Trial counsel is ineffective if she fails to inform a convicted client of the right to appeal when the client is convicted pursuant to a jury verdict.² There is no such obligation to inform the client of the right to appeal when the conviction results from a guilty plea, although the obligation may arise under certain circumstances, such as when the client inquires about an appeal, or when the advice may benefit the client, such as when there exists a direct appeal claim that has a reasonable likelihood of success.³ In his petition,

¹See generally Davis v. State, 115 Nev. 17, 974 P.2d 658 (1999).

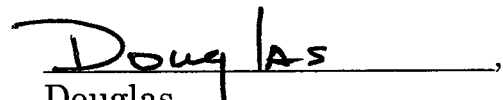
²Lozada v. State, 110 Nev. 349, 356, 871 P.2d 944, 948 (1994).


³Thomas v. State, 115 Nev. 148, 150, 979 P.2d 222, 223 (1999).

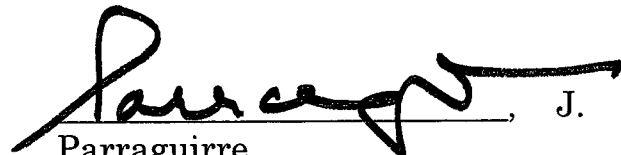
appellant stated no facts showing he inquired about an appeal. Appellant's petition also raised no facts showing a direct appeal claim that had a reasonable likelihood of success. Therefore, we affirm the order of the district court dismissing appellant's petition.

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.
Douglas


_____, J.
Rose


_____, J.
Parraguirre

cc: Hon. Steven P. Elliott, District Judge
Joel Ullyott
Attorney General George Chanos/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

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