

IN THE SUPREME COURT OF THE STATE OF NEVADA

MIGUEL ANGEL GONZALEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45870

FILED

MAY 26 2006

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 Miguel Angel Gonzalez's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jackie Glass, Judge.

The district court convicted Gonzalez, pursuant to a jury verdict, of two counts of trafficking in a controlled substance and one count of possession of a controlled substance. The district court sentenced Gonzalez to serve two consecutive prison terms of 26 to 120 months and a concurrent prison term of 12 to 34 months. Gonzalez did not file a direct appeal. However, he did file a timely post-conviction petition for a writ of habeas corpus. The district court heard argument and denied the petition. This appeal follows.

Gonzalez claims that the district court erred in finding that counsel was effective. He contends that counsel was ineffective for failing argue for concurrent sentences. We disagree.

To state a claim of ineffective assistance of counsel sufficient to invalidate a judgment of conviction, a petitioner must demonstrate that counsel's performance fell below an objective standard of reasonableness.¹ A petitioner must further establish a reasonable probability that, in the absence of counsel's errors, the results of the proceedings would have been different.² The court can dispose of a claim if the petitioner makes an insufficient showing on either prong.³

Even assuming that counsel was deficient for failing to argue for concurrent sentences,⁴ Gonzalez failed to demonstrate that the results of the sentencing hearing would have been different. The district judge who decided Gonzalez's habeas petition was also the district judge who sentenced him. The district judge found that it was "not reasonably probable that [she] would have given [Gonzalez] all concurrent sentences even if his attorney has so argued." We defer to the factual findings of the

¹See Strickland v. Washington, 466 U.S. 668 (1984); Warden v. Lyons, 100 Nev. 430, 683 P.2d 504 (1984).

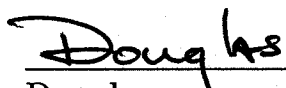
²Id.


³Strickland, 466 U.S. at 697.

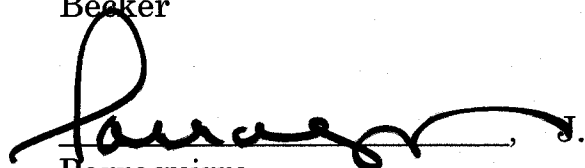
⁴See Brown v. State, 110 Nev. 846, 851-52, 877 P.2d 1071, 1074 (1994).

district court,⁵ and we conclude that it did not err in denying Gonzalez's petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Becker


_____, J.
Parraguirre

cc: Honorable Jackie Glass, District Judge
Dan M. Winder
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁵See Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994).