

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY E. THOMAS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45992

FILED

JUL 28 2006

BY ANNETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Anthony E. Thomas' post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

On appeal, Thomas contends that the district court erred in denying his habeas petition. Specifically, Thomas contends that, at his trial, the district court erred by failing to (1) adequately instruct the jury that attempted murder is a specific intent crime; (2) provide jury instructions accurately defining conspiracy; (3) exclude evidence of the codefendant's apology to the victim; and (4) exclude the testimony of the crime scene analyst.¹ Thomas also contends that trial counsel was ineffective for failing to object to the district court's alleged errors. We disagree.²


¹In an earlier proceeding, the district court determined that trial counsel unconstitutionally deprived Thomas of his right to a direct appeal, and therefore, he was entitled to raise direct appeal issues in his habeas petition. See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

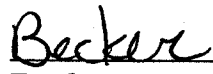
²We note that in this appeal, Thomas fails to assign any specific error to the district court order denying his habeas petition; his fast track statement is nearly identical to the petition filed below.

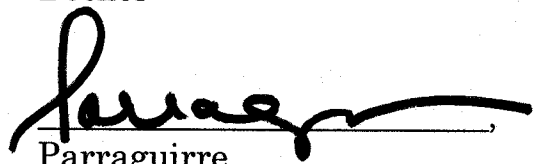
At the hearing on Thomas' petition, the district court found that counsel was not ineffective. Additionally, the district court found that Thomas' appellate contentions were without merit. The district court's factual findings are entitled to deference when reviewed on appeal.³ Thomas has not demonstrated, let alone even alleged, that the district court's findings of fact are not supported by substantial evidence or are clearly wrong. Moreover, Thomas has not demonstrated or alleged that the district court erred as a matter of law. Therefore, we conclude that the district court did not err in denying Thomas' petition.

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

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Becker


_____, J.
Parraguirre

cc: Hon. Donald M. Mosley, District Judge
Aldrich & Bryson LLP
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

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