

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMAA ANTHONY CINQUE A/K/A
JAMA ANTHONY CINQUE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46011

JAMAA ANTHONY CINQUE A/K/A
JAMA ANTHONY CINQUE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46012

FILED

FEB 24 2006

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

ORDER OF AFFIRMANCE

These are consolidated appeals from a district court order denying appellant's post-conviction petition for a writ of habeas corpus.¹ Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

In district court case number CR03-0873, appellant Jamaa Anthony Cinque was convicted, pursuant to a guilty plea, of one count of burglary. The district court adjudicated Cinque as a habitual criminal and sentenced him to serve a prison term of 5 to 20 years. In district court case number CR03-0888, Cinque was convicted, pursuant to a guilty plea, of three counts of burglary. The district court sentenced Cinque to serve two consecutive and one concurrent prison term of 48 to 120 months.

¹Pursuant to NRAP 3(b), we have elected to consolidate these appeals for disposition.

Cinque filed direct appeals in both district court cases, and this court affirmed the judgments of conviction.²

On June 11, 2004, Cinque filed a proper person post-conviction petition for a writ of habeas corpus in both district court cases. The State opposed the petition. The district court appointed counsel to represent Cinque. After conducting an evidentiary hearing, the district court denied the petition in both cases. Cinque filed these timely appeals.

Cinque contends that the district court erred in denying his petition because his defense counsel was ineffective and Cinque was incompetent to enter his guilty pleas. Specifically, Cinque argues that the Prozac and Trazadone medication he was taking "rendered him in a catatonic state at the time of the entry of the pleas," he had no recollection of entering the pleas, and defense counsel should not have allowed Cinque to plead guilty while under the influence of prescription drugs. We conclude that Cinque's contentions lack merit.

The district court found that trial counsel was not ineffective and that Cinque was competent to enter the guilty pleas.³ We conclude that the district court's findings are supported by substantial evidence.⁴ In particular, at the post-conviction hearing, defense counsel Justin

²Cinque v. State, Docket Nos. 42123 & 42125 (Order of Affirmance, February 25, 2004).

³See Riker v. State, 111 Nev. 1316, 1325, 905 P.2d 706, 711 (1995) (A defendant is competent if he "has sufficient present 'ability to consult with his lawyer with a reasonable degree of rational understanding' and a 'rational as well as factual understanding of the proceedings against him.'" (quoting Dusky v. United States, 362 U.S. 402, 402 (1960))).

⁴See Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994); see also Strickland v. Washington, 466 U.S. 668 (1984).

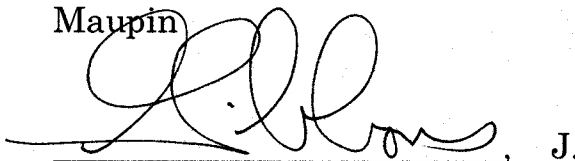
Champagne testified that he had no reason to believe that Cinque was incompetent to enter the guilty pleas. To the contrary, Champagne described Cinque as an active participant in the preliminary hearing, as well as in negotiations with the State. Champagne also testified that Cinque received a substantial benefit for the guilty pleas in that the State agreed not to seek large habitual criminal adjudication⁵ and to drop other pending criminal charges. Finally, the transcript of the plea canvass indicates that Cinque was able to appropriately respond to the district court's questions and that he understood the nature of the proceedings against him. Accordingly, we conclude that district court did not err in denying the petition.

Having considered Cinque's contentions and concluded that they lack merit, we

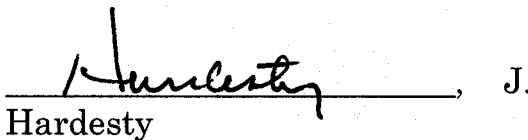
ORDER the judgment of the district court AFFIRMED.

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

⁵See NRS 207.010(1)(b). The record indicates that Cinque had 13 prior felony convictions.

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