

IN THE SUPREME COURT OF THE STATE OF NEVADA

GUSTAVO ARIANDA CUMPLIDO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46105

FILED

APR 07 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's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Lee A. Gates, Judge.

Appellant Gustavo Arianda Cumplido was convicted, pursuant to a jury verdict, of two counts of second degree murder with the use of a deadly weapon, one count of attempted murder with the use of a deadly weapon, and two counts of discharging a firearm out of a motor vehicle.

Cumplido filed a direct appeal, and this court affirmed the judgment of conviction, but remanded the matter for the limited purpose of correcting the judgment of conviction.¹ Cumplido filed a timely proper person post-conviction petition for a writ of habeas corpus. The district court appointed counsel, who filed a supplemental petition. After hearing argument, the district court denied the petition.

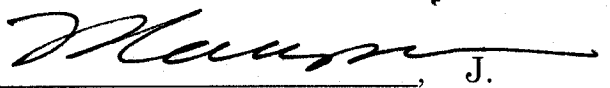
On appeal, Cumplido's only contention is that the district court erred by finding that counsel was not ineffective for failing to request a competency hearing. Cumplido argues that counsel should have

¹Cumplido v. State, No. 39349 (Order Affirming in Part and Remanding in Part, February 5, 2003).

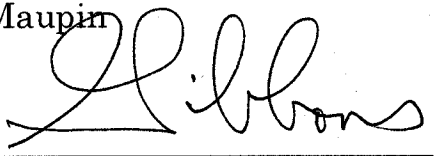
requested a hearing because Cumplido is illiterate. The district court found that there was no evidence that Cumplido was incompetent, and that illiteracy does not necessarily equate to incompetence.

The district court's factual findings regarding a claim of ineffective assistance of counsel are entitled to deference when reviewed on appeal.² Appellant has not demonstrated that the district court's findings of fact are not supported by substantial evidence or are clearly wrong. Moreover, appellant has not demonstrated that the district court erred as a matter of law.³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____ J.

Maupin


_____ J.

Gibbons


_____ J.

Hardesty

cc: Hon. Lee A. Gates, District Judge
Law Offices of Cristina Hinds, Esq.
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

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

³See McCullough v. State, 94 Nev. 51, 574 P.2d 585 (1978) (holding that lack of education does not, by itself, suggest incompetency).