

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDDIE BELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46241

FILED

MAR 22 2006

JENNIFER M. HILSON
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person 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; Jennifer Togliatti, Judge.

On December 4, 2003, the district court convicted appellant, pursuant to a guilty plea, of two counts of burglary and two counts of grand larceny. The district court adjudicated appellant a habitual criminal and sentenced him to serve two consecutive terms of life in the Nevada State Prison, with the possibility of parole after ten years, and two concurrent terms of 48 to 120 months. This court affirmed appellant's judgment of conviction.¹ The remittitur issued on December 28, 2004.

¹Bell v. State, Docket No. 42569 (Order of Affirmance, December 1, 2004).

On July 6, 2005, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. 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 October 12, 2005, the district court denied appellant's petition. This appeal followed.

In his petition, appellant contended that counsel was ineffective. To state a claim of ineffective assistance of counsel sufficient to invalidate a judgment of conviction based on a guilty plea, a petitioner must demonstrate that his counsel's performance was deficient in that it fell below an objective standard of reasonableness, and resulting prejudice such that there is a reasonable probability that, but for counsel's errors, petitioner would not have pleaded guilty and would have insisted on going to trial.² The court need not address both components of the inquiry if the petitioner makes an insufficient showing on either one.³

Appellant claimed that counsel was ineffective for coercing him into pleading guilty by telling him that the maximum sentence that appellant faced was one to ten years. Appellant failed to demonstrate that counsel was ineffective. The plea agreement stated that appellant was

²Hill v. Lockhart, 474 U.S. 52 (1985); Kirksey v. State, 112 Nev. 980, 923 P.2d 1102 (1996).

³Strickland v. Washington, 466 U.S. 668, 697 (1984).

facing habitual criminal treatment and specified the possible sentences that appellant could receive. It also stated that appellant had not been promised any particular sentence and that the district court was not obligated to accept any recommendation. Appellant stated during his plea canvass that no one was forcing him to plead guilty, that he had read, understood and signed the plea agreement, and that he understood he was facing habitual criminal adjudication. Therefore, we conclude the district court did not err in denying this claim.

Appellant also claimed that there was no probable cause for his arrest, that latent fingerprints recovered from the crime scene were unreliable, that he had no stolen property in his possession, and that his habitual criminal adjudication is an ex post facto law. These claims are outside the scope of a petition for a writ of habeas corpus.⁴ Further, a guilty plea operates as a waiver of procedural errors occurring prior to the entry of the plea.⁵ Thus, we conclude that the district court did not err in denying these claims.

⁴See NRS 34.810(1)(a).

⁵See Kirksey v. State, 112 Nev. 980, 923 P.2d 1102 (1996).

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.⁶ Accordingly, we

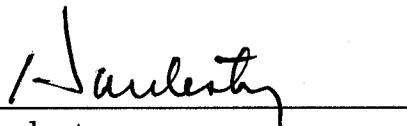
ORDER the judgment of the district court AFFIRMED.⁷

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

⁶See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁷We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.

cc: Hon. Jennifer Togliatti, District Judge
Eddie Earvin Bell
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk