

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL SHANE WACKERLY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 47374

**FILED**

APR 06 2007

ORDER OF AFFIRMANCE

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

This is an appeal from an order of the district court denying appellant Michael Shane Wackerly's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

The district court convicted Wackerly, pursuant to a guilty plea, of one count of lewdness with a child under the age of fourteen years. The district court sentenced Wackerly to serve a prison term of life with the possibility of parole after ten years. We affirmed the judgment of conviction on direct appeal.<sup>1</sup>

Wackerly subsequently filed a timely proper person post-conviction petition for a writ of habeas corpus. The district court

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<sup>1</sup>Wackerly v. State, Docket No. 42008 (Order of Affirmance, April 13, 2004).

appointed counsel to represent Wackerly, conducted an evidentiary hearing, and denied the petition. This appeal follows.

Wackerly contends that the district court erred in denying his post-conviction petition for a writ of habeas corpus. He specifically claims "that the district court erred by not believing his claim that his attorney's promise of probation improperly induced his guilty plea." In his petition, Wackerly claimed that his guilty plea was entered unknowingly, involuntarily, and unintelligently because it was induced by trial counsel's promise that he had a 99 percent chance of receiving probation. Wackerly was the only witness to testify at the evidentiary hearing. The district court found that

Wackerly agreed to accept the plea bargain. Wackerly's acceptance was not coerced by any threats, nor was it induced by any promises of a particular sentence or promise of leniency. Wackerly's testimony to the contrary is not credible.

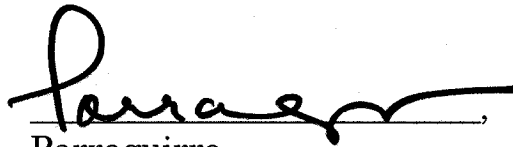
The district court's factual findings are entitled to deference when reviewed on appeal.<sup>2</sup> In his appeal, Wackerly has not demonstrated that the district court's findings of fact are not supported by substantial evidence or are clearly wrong. Nor has he shown that the district court

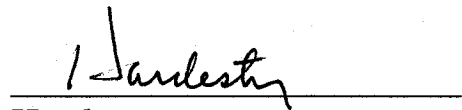
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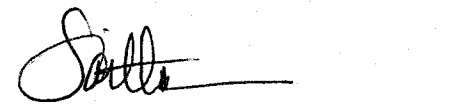
<sup>2</sup>See Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994).

erred as a matter of law. Accordingly, we conclude that Wackerly has failed to demonstrate that the district court abused its discretion,<sup>3</sup> and we

ORDER the judgment of the district court AFFIRMED.

 J.  
Parraguirre

 J.  
Hardesty

 J.  
Saitta

cc: Hon. Connie J. Steinheimer, District Judge  
Scott W. Edwards  
Attorney General Catherine Cortez Masto/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk

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<sup>3</sup>See Hubbard v. State, 110 Nev. 671, 675, 877 P.2d 519, 521 (1994) (providing that this court will not reverse a district court's determination concerning the validity of a plea absent a clear abuse of discretion).