

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSEPH JOHN CRISCI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48336

JOSEPH JOHN CRISCI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48339

FILED

FEB 08 2007

ORDER OF AFFIRMANCE

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

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

On February 24, 2005, the district court convicted appellant Joseph John Crisci in two criminal cases. In district court case number CR040649A, Crisci was convicted, pursuant to a guilty plea, of one count of robbery with the use of a firearm. The district court sentenced Crisci to serve two consecutive prison terms of 24 to 84 months. In district court case number CR032701A, Crisci was convicted, pursuant to a guilty plea, of seven counts of robbery with the use of a firearm. The district court sentenced Crisci to serve two consecutive prison terms of 48 to 156 months for the first robbery count and additional prison terms for the remaining counts, which were ordered to run concurrently to count I and the sentence imposed in district court case number CR040649A. Crisci did not file direct appeals from the judgments of conviction.

On June 6, 2005, Crisci filed a proper person postconviction petition for a writ of habeas corpus in the district court challenging both

convictions. The district court appointed counsel to represent Crisci, and counsel filed a supplement to the petition. The district court summarily denied the petition without ordering a response from the State. Crisci appealed, and this court ordered the judgment of the district court vacated and remanded the case to the district court for an evidentiary hearing.¹ After an evidentiary hearing, the district court denied the petition. Crisci filed this timely appeal.

Crisci contends that the district court erred by rejecting his claims that his guilty pleas were not knowing, voluntary and intelligent, and that his defense counsel was ineffective. Specifically, Crisci argues that his guilty pleas were involuntary because he was under the influence of "inconsistent" prescription medications, hallucinating and drooling during the plea canvass, and was merely "follow[ing] his legal representative." Additionally, Crisci argues that defense counsel was ineffective for: (1) coercing the guilty pleas; (2) failing to recommend a trial on the Day's Inn robbery counts and present defenses of insanity, duress, and character; (3) failing to recommend a trial on the remaining robbery counts and present an alibi and character defense; (4) abandoning the presentence motion to withdraw the guilty pleas; (5) failing to gather exculpatory evidence; and (6) failing to call his mother and girlfriend to testify at the sentencing hearing.

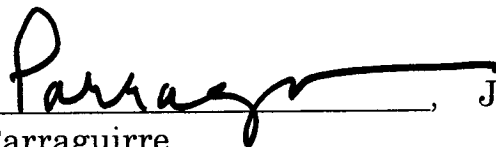
The district court found that Crisci's guilty pleas were knowing, voluntary, and intelligent, and that defense counsel was not

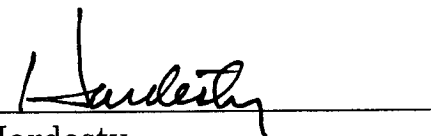
¹Crisci v. State, Docket No. 46384 (Order Vacating Judgment and Remanding, February 24, 2006).


ineffective under the standard set forth in Strickland v. Washington.² The district court's factual findings regarding the validity of a guilty plea and claims of ineffective assistance of counsel are entitled to deference when reviewed on appeal.³ Crisci has not demonstrated that the district court's findings of fact are not supported by substantial evidence or are clearly wrong. Moreover, Crisci has not demonstrated that the district court erred as a matter of law.⁴

Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Parraguirre


_____, J.
Hardesty


_____, J.
Saitta

²466 U.S. 668 (1984).

³See Bryant v. State, 102 Nev. 268, 721 P.2d 364 (1986); Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994).

⁴We also conclude that the district court did not err by rejecting Crisci's claim that the State failed to preserve exculpatory evidence, which he intended to use at the postconviction hearing. Crisci failed to show that the State acted in bad faith or that he was prejudiced when the prison destroyed the jeans at issue. See State v. Hall, 105 Nev. 7, 9, 768 P.2d 349, 350 (1989).

cc: Hon. Steven P. Elliott, District Judge
Mary Lou Wilson
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk