

IN THE SUPREME COURT OF THE STATE OF NEVADA

SAMUEL GRIFFIN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 48829

**FILED**

SEP 07 2007

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY A. Alvarado  
DEPUTY CLERK

This is an appeal from a district court order denying appellant's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge.

On October 22, 2002, appellant Samuel Griffin was convicted, pursuant to a guilty plea, of one count of armed robbery. The district court sentenced Griffin to serve two consecutive prison terms of 24 to 180 months. Griffin filed a direct appeal, and this court affirmed the judgment of conviction.<sup>1</sup>

On October 17, 2003, Griffin filed a proper person post-conviction petition for a writ of habeas corpus. The State filed a motion to dismiss the petition. The district court appointed counsel, and counsel

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<sup>1</sup>Griffin v. State, Docket No. 40563 (Order of Affirmance, February 5, 2003).

filed an opposition to the motion to dismiss. The district court dismissed the petition in part. After conducting an evidentiary hearing on Griffin's remaining claim, the district court denied the petition. Griffin filed this timely appeal.

Griffin contends that the district court erred in rejecting his claims of ineffective assistance of counsel. Specifically, Griffin argues that he was entitled to an evidentiary hearing on his claims that defense counsel was ineffective for: (1) failing to file a motion to enforce the terms of the first plea agreement; (2) failing to object to the admission of evidence of prior bad acts at the sentencing hearing; (3) failing to object to instances of prosecutorial misconduct at sentencing; (4) failing to conduct adequate pretrial investigation; (5) misadvising Griffin with respect to the maximum potential sentence; (6) failing to file a motion to have an unrelated criminal case dismissed before sentencing; (7) failing to adequately advise him of his appellate rights; and (8) failing to raise numerous issues on direct appeal.

Griffin also contends that the district court erred in denying his claim, after a hearing, that defense counsel was ineffective for failing to object to erroneous information in the presentence investigation report. Finally, Griffin contends that the district court erred in finding that his guilty plea was knowing, voluntary and intelligent. In particular, Griffin argues that the totality of the circumstances indicates that his guilty plea is invalid given "numerous errors of appellant's counsel, the Division of

Parole and Probation, and the prosecution, and the potential that the district court relied thereon in imposing the sentence on appellant."

The district court found that defense counsel was not ineffective under the standard set forth in Strickland v. Washington,<sup>2</sup> and that Griffin's guilty plea was knowing, voluntary, and intelligent. 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.<sup>3</sup> Griffin has not demonstrated that the district court's findings of fact are not supported by substantial evidence or are clearly wrong. Moreover, Griffin has not demonstrated that the district court erred as a matter of law.

Griffin also argues that reversal of his conviction is warranted because: (1) the prosecutor breached the spirit of the plea agreement; (2) his due process rights were violated at sentencing; (3) the sentence was based on highly suspect evidence and erroneous information contained in the presentence investigation report; and (4) the prosecutor committed misconduct. The district court did not err in dismissing Griffin's

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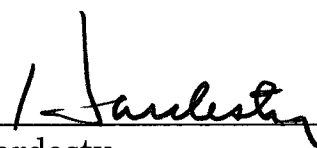
<sup>2</sup>466 U.S. 668 (1984).

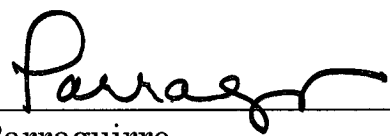
<sup>3</sup>See Bryant v. State, 102 Nev. 268, 721 P.2d 364 (1986); Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994).

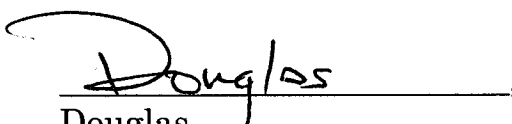
contentions because he waived his right to raise these issues by failing to pursue them on direct appeal.<sup>4</sup>

Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>5</sup>

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Douglas

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<sup>4</sup>See NRS 34.810(1)(a); Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) ("claims that are appropriate for a direct appeal must be pursued on direct appeal, or they will be considered waived in subsequent proceedings"), overruled on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999).

<sup>5</sup>Because Griffin is represented by counsel in this matter, we decline to grant him permission to file documents in proper person in this court. See NRAP 46(b). Accordingly, this court shall take no action and shall not consider the proper person documents he has submitted to this court in this matter.

cc: Hon. Steven R. Kosach, District Judge  
Scott W. Edwards  
Attorney General Catherine Cortez Masto/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk  
Samuel Griffin