IN THE SUPREME COURT OF THE STATE OF NEVADA

LAWRENCE PRUETT A/K/A LAWRENCE E. PRUETT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49092

FILED

AUG 07 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
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; Sally L. Loehrer, Judge.

On October 11, 2005, the district court convicted appellant, pursuant to a jury verdict, of second degree murder with the use of a deadly weapon. The district court sentenced appellant to serve two equal and consecutive terms of ten to twenty-five years in the Nevada State Prison. Appellant appealed and this court affirmed his conviction and sentence.[1] The remittitur issued on April 21, 2006.

On June 5, 2006, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The

[1]Pruett v. State, Docket No. 46244 (Order of Affirmance, March 27, 2006).

07-17357

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 April 16, 2007, the district court denied appellant's petition. This appeal followed.

In his petition, appellant claimed that he received ineffective assistance of counsel. To state a claim of ineffective assistance of counsel sufficient to invalidate a judgment of conviction, a petitioner must demonstrate that counsel's performance was deficient in that it fell below an objective standard of reasonableness, and prejudice such that counsel's errors were so severe that they rendered the jury's verdict unreliable.[2] The court need not address both components of the inquiry if the petitioner makes an insufficient showing on either one.[3]

First, appellant claimed that his trial counsel was ineffective for failing to consult with appellant and conduct a thorough investigation. Appellant claimed that his counsel did not investigate appellant's defense of choice, which was self-defense, but instead pursued his own trial strategy. Further, appellant's counsel failed to request a self-defense jury instruction. To the extent appellant asserted he was denied his defense of choice and the corresponding jury instruction, this claim is belied by the

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[2]Strickland v. Washington, 466 U.S. 668 (1984); Warden v. Lyons, 100 Nev. 430, 683 P.2d 504 (1984).

[3]Strickland, 466 U.S. at 697.

record.[4] Appellant's counsel argued a self-defense theory by presenting witnesses who attested to the victim's reputation for violence. Appellant's counsel also argued in closing that appellant, who was frail and sickly, was forced to shoot the knife-wielding victim to repel his attack. Moreover, the district court instructed the jury on self-defense. Regarding appellant's claim that his counsel failed to consult with him and conduct a more thorough investigation, appellant did not allege how a more thorough investigation or more meetings with counsel would have made a difference in the outcome of the case.[5] Accordingly, the district court did not err in denying this claim.

Second, appellant claimed that his trial counsel was ineffective for failing to retain expert witnesses to rebut the State's expert. In his petition, appellant claimed counsel should have consulted a forensic pathologist, forensic anthropologist, criminalist, and forensic ballistics expert. Appellant claimed that the consultation would have revealed additional scientific evidence that supported a claim of self-defense. Appellant failed to demonstrate that his trial counsel's performance was deficient or that he was prejudiced. Appellant failed to identify possible or potential experts or the potential testimony these experts would have

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[4]Hargrove v. State, 100 Nev. 498, 503, 686 P.2d 222, 225 (1984).

[5]See id. at 502-03, 686 P.2d at 225 (holding that "bare" or "naked" claims, which are unsupported by specific facts, are insufficient to grant relief).

offered.[6] Accordingly, we conclude the district court did not err in dismissing this claim.

Third, appellant claimed that his counsel was ineffective for failing to move to suppress statements he made to police in violation of Miranda v. Arizona.[7] Appellant failed to demonstrate that his trial counsel's performance was deficient or that he was prejudiced. Prior to appellant's first interview at his home while police were processing the crime scene, appellant acknowledged that he understood that he was not under arrest. Thus, no warnings were required prior to questioning.[8] Regarding appellant's second statement to police, Detective Ramos testified that he informed appellant of his rights pursuant to Miranda prior to the recorded conversation. Thus, appellant's claim that he did not receive a warning is without merit. Accordingly, the district court did not err in denying this claim.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that

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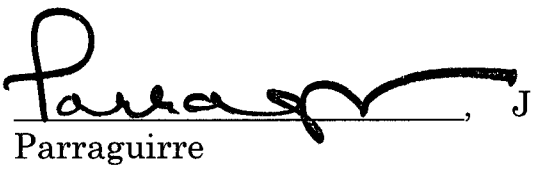
[6]Id.

[7]384 U.S. 436 (1966).

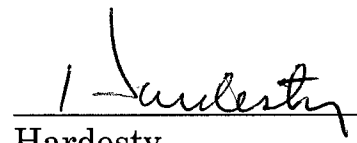
[8]See Archanian v. State, 122 Nev. ___, ___, 145 P.3d 1008, 1021-22 (2006) (holding that a rights advisement pursuant to Miranda is required when an individual is subjected to custodial interrogation).

briefing and oral argument are unwarranted.[9] Accordingly, we

ORDER the judgment of the district court AFFIRMED.[10]



_____, J.
Parraguirre



_____, J.
Hardesty

_____, J.
Saitta

cc: Hon. Sally L. Loehrer, District Judge
Lawrence Pruett
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

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[9]See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

[10]We 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.