

IN THE SUPREME COURT OF THE STATE OF NEVADA

VERNON L. MORRISON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49441

FILED

JAN 09 2008

TRACEE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

On July 5, 2005, appellant Vernon Morrison was convicted, pursuant to a guilty plea, of one count of stop required on the signal of a police officer and two counts of driving while under the influence of a controlled substance causing death. The district court sentenced Morrison to serve a prison term of 60 to 180 months and two prison terms of 60 to 240 months. The district court ordered the sentences imposed to run consecutively. Morrison did not file a direct appeal.

On December 8, 2005, Morrison filed in the district court a proper person post-conviction petition for a writ of habeas corpus. The State opposed the petition. The district court appointed counsel to represent Morrison, and counsel filed a supplement to the petition. After conducting an evidentiary hearing, the district court denied the petition. Morrison filed this timely appeal.

Morrison contends that the district court erred in rejecting his claims of ineffective assistance of counsel. Specifically, Morrison contends that his defense counsel was ineffective for failing to: (1) file any pretrial

motions; (2) seek a continuance; (3) file a motion to dismiss several of the criminal counts; (4) adequately inform Morrison of the consequences of the guilty plea; (5) attempt to remove the case from the overflow judge; (6) present mitigating evidence at sentencing; and (7) file a direct appeal challenging the severity of the sentence and the reassignment of the case to an overflow judge.¹ Morrison also argues that defense counsel was ineffective for misrepresenting matters concerning the sentencing judge and potential sentence.

The district court found that Morrison's guilty plea was knowing, voluntary and intelligent, and that defense counsel was not ineffective under the standard set forth in Strickland v. Washington.² In particular, the district court found that defense counsel did not misadvise appellant about the sentencing judge or the potential sentence, or deprive appellant of a direct appeal. 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 Morrison has not demonstrated that the district court's findings of fact are not supported by

¹To the extent that Morrison challenges the severity of the sentence in this appeal, we conclude that Morrison has waived this issue by failing to raise it in a direct appeal from the judgment of conviction. 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 in part on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999).

²466 U.S. 668 (1984).

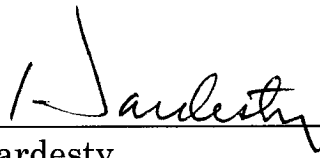
³See Bryant v. State, 102 Nev. 268, 721 P.2d 364 (1986); Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994).

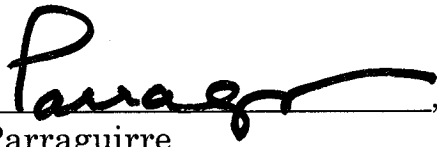
substantial evidence or are clearly wrong. Moreover, Morrison has not demonstrated that the district court erred as a matter of law.

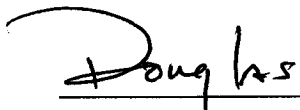
We note that Morrison signed a written plea agreement advising him of the consequences of the guilty plea and was canvassed by the district court. Morrison has failed to show that he was prejudiced by counsel's performance involving the entry of Morrison's guilty plea, or counsel's failure to file pretrial motions or present mitigating evidence at sentencing. Accordingly, the district court did not abuse its discretion in denying the petition.

Having considered Morrison's contentions and concluded that they lack merit, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. Jessie Elizabeth Walsh, District Judge
Bunin & Bunin
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk