

IN THE SUPREME COURT OF THE STATE OF NEVADA

RONALD O'NEAL CALVIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49656

FILED

DEC 10 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY S. Young
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; Jackie Glass, Judge.

On January 12, 2006, the district court convicted appellant, pursuant to a guilty plea, of two counts of first-degree murder with the use of a deadly weapon. The district court sentenced appellant to serve four consecutive terms of life in the Nevada State Prison without the possibility of parole. This court affirmed appellant's judgment of conviction on appeal.¹ The remittitur issued on February 27, 2007.

On February 12, 2007, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to

¹Calvin v. State, 122 Nev. ___, 147 P.3d 1097 (2006).

conduct an evidentiary hearing. On May 18, 2007, the district court denied appellant's petition. This appeal followed.

In his petition, appellant contended that he received ineffective assistance of counsel. To state a claim of ineffective assistance of counsel sufficient to invalidate a judgment of conviction based on a guilty plea, a petitioner must demonstrate that his counsel's performance was deficient in that it fell below an objective standard of reasonableness, and resulting prejudice such that there is a reasonable probability that, but for counsel's errors, petitioner would not have pleaded guilty and would have insisted on going to trial.² The court need not address both components of the inquiry if the petitioner makes an insufficient showing on either one.³

Appellant claimed that his counsel was ineffective for failing to object to inconsistent statements made by an officer during a suppression hearing. Appellant did not demonstrate that his counsel was deficient or that he was prejudiced. Appellant's claim was bereft of specific facts regarding which witness testified inconsistently and what

²Hill v. Lockhart, 474 U.S. 52 (1985); Kirksey v. State, 112 Nev. 980, 923 P.2d 1102 (1996).

³Strickland v. Washington, 466 U.S. 668, 697 (1984).

statements were inconsistent.⁴ Therefore, the district court did not err in denying this claim.

Appellant also claimed that he received ineffective assistance of appellate counsel. To state a claim of ineffective assistance of appellate counsel, a petitioner must demonstrate that counsel's performance was deficient in that it fell below an objective standard of reasonableness, and resulting prejudice such that the omitted issue would have a reasonable probability of success on appeal.⁵ Appellate counsel is not required to raise every non-frivolous issue on appeal.⁶ This court has held that appellate counsel will be most effective when every conceivable issue is not raised on appeal.⁷

Appellant claimed that his appellate counsel was ineffective for refusing to argue issues proffered by appellant. Appellant did not demonstrate that his appellate counsel was deficient or that he was prejudiced. Appellant did not allege any specific facts regarding what issues his counsel refused to argue on appeal.⁸ To the extent that he

⁴See Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984) (holding that "bare" or "naked" claims, which are unsupported by specific facts, are insufficient to grant relief).

⁵Kirksey, 112 Nev. at 998, 923 P.2d at 1114.

⁶Jones v. Barnes, 463 U.S. 745, 751 (1983).


⁷Ford v. State, 105 Nev. 850, 853, 784 P.2d 951, 953 (1989).

⁸See Hargrove, 100 Nev. at 502, 686 P.2d at 225.

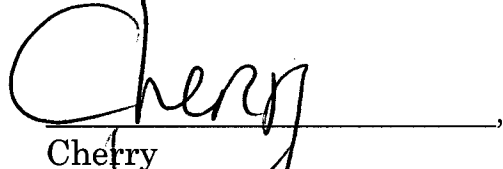
claimed that his appellate counsel refused to argue that the district court improperly relied upon inconsistent statements made by an officer during a suppression hearing, for the reasons discussed above, we conclude that appellant did not establish that his appellate counsel was ineffective. Therefore, 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 briefing and oral argument are unwarranted.⁹ Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹⁰


_____ J.

Gibbons


_____ J.

Cherry


_____ J.

Saitta

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

¹⁰We 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.

cc: Hon. Jackie Glass, District Judge
Ronald O'Neal Calvin
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk