

IN THE SUPREME COURT OF THE STATE OF NEVADA

DARREL M. ROBINSON A/K/A
MARION ANDERSON A/K/A DARRELL
M. ROBINSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50167

FILED

JAN 09 2008

TRACE K. LINDEMAN
CLERK OF SUPREME COURT
BY: *[Signature]*
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; Jackie Glass, Judge.

On January 3, 2005, the district court convicted appellant, pursuant to a guilty plea, of one count of robbery with the use of a deadly weapon. The district court sentenced appellant Darrel M. Robinson to serve two consecutive prison terms of 60 to 180 months. Robinson did not file a direct appeal.

Subsequently, Robinson filed in the district court a timely proper person post-conviction petition for a writ of habeas corpus and a proper person motion to withdraw the guilty plea. The State opposed the petition and motion. The district court declined to appoint counsel to represent Robinson. After conducting an evidentiary hearing, the district court denied the petition and the motion to withdraw the guilty plea. Robinson appealed, and this court entered an order affirming in part,

reversing in part, and remanding the matter to the district court.¹ In particular, this court concluded that Robinson had been deprived of his right to a direct appeal and remanded the case to the district court for the appointment of counsel and the filing of a post-conviction petition for a writ of habeas corpus pursuant to Lozada v. State.²

On May 10, 2007, Robinson, with the assistance of counsel, filed a post-conviction petition for a writ of habeas corpus. The State opposed the petition. After hearing argument from counsel, the district court denied the petition. Robinson filed this timely appeal.

Robinson contends that his right to due process was violated "when the court sentenced him to prison after the court indicated the plea agreement has been rescinded." Robinson fails to cite any legal authority in support of his argument that the district court "rescinded" the plea bargain.³ Further, Robinson's claim that the plea bargain was rescinded is belied by the record.⁴ The record indicates that the district court denied appellant's requests to withdraw the guilty plea. Accordingly, Robinson has failed to show a violation of his constitutional right to due process.

¹Robinson v. State, Docket No. 46647 (Order Affirming in Part, Reversing in Part and Remanding, September 20, 2006).

²Id. (citing Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994)).

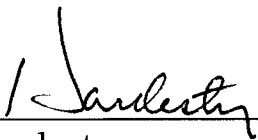
³See Maresca v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) ("It is appellant's responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court.").


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

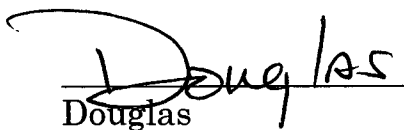
Citing to Santabello v. New York,⁵ Robinson also contends that the prosecutor breached the plea agreement by arguing for the maximum sentence, instead of the recommended sentence agreed upon by the parties. Notably, the signed written plea agreement contained a failure to appear clause that provided that the State could argue for an appropriate sentence if Robinson failed to appear at the sentencing hearing and Robinson, in fact, failed to appear for sentencing. This court has specifically held that a failure to appear clause in a written plea agreement is enforceable.⁶ Accordingly, we conclude that the State did not breach the plea agreement when it argued for a higher sentence.

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

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

⁵404 U.S. 257 (1971).

⁶See Sparks v. State, 121 Nev. 107, 110 P.3d 486 (2005) (a failure to appear clause in a plea agreement is lawful and enforceable).

cc: Hon. Jackie Glass, District Judge
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Clark County District Attorney David J. Roger
Eighth District Court Clerk