

IN THE SUPREME COURT OF THE STATE OF NEVADA

ARTHUR JOSEPH BREWER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50377

FILED

AUG 12 2008

TRACIE K. LINDEMAN
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; Lee A. Gates, Judge.

On August 14, 2006, the district court convicted appellant, pursuant to a guilty plea, of possession of a stolen vehicle. The district court sentenced appellant as a large habitual criminal to serve a term of ten to twenty-five years in the Nevada State Prison. This court affirmed the judgment of conviction on appeal.¹ The remittitur issued on April 3, 2007.

On July 30, 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

¹Brewer v. State, Docket No. 48014 (Order of Affirmance, March 6, 2007).

conduct an evidentiary hearing. On September 26, 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, 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 result of the proceeding unreliable.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 the State's failure to offer certified copies of his prior convictions to the district court as proof for habitual criminal adjudication. Appellant failed to demonstrate that his counsel's performance was deficient or that he was prejudiced. The transcript of appellant's sentencing hearing indicated that the State proffered documents that evidenced appellant's prior convictions. Further, the district court minutes indicate that the district court received certified copies of appellant's prior judgments of conviction. Moreover, appellant did not assert, either in his petition or during the sentencing hearing, that he had not in fact been convicted of the requisite number of prior felonies to be

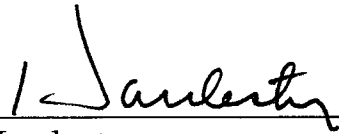
²Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Warden v. Lyons, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984).

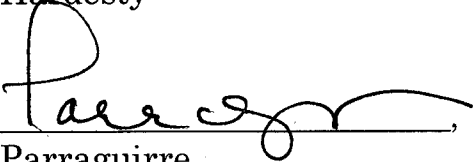
³Strickland, 466 U.S. at 697.

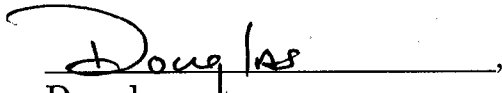
eligible for large habitual criminal treatment. Therefore, the district court did not err in denying this claim.⁴

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.⁵ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁶


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

⁴Appellant also claimed that the State erred in failing to introduce certified copies of his judgments of conviction. This claim is outside the scope of claims permitted in a petition for a writ of habeas corpus attacking a judgment of conviction based on a guilty plea. See NRS 34.810(1)(a).

⁵See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁶We 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. Lee A. Gates, District Judge
Arthur Joseph Brewer
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk