

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALICIA MAY SULLIVAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50488

FILED

JUN 12 2008

TRACIE A. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant Alicia May Sullivan's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Jerome Polaha, Judge.

On August 14, 2002, Sullivan was convicted, pursuant to a guilty plea, of robbery with the use of a firearm (count I), conspiracy to commit robbery with the use of a firearm (count II), possession of a stolen motor vehicle (count III), possession and/or manufacture of a short-barreled shotgun (count IV), and escape (count V). The district court sentenced Sullivan to serve two consecutive prison terms of 48-120 months for count I, a concurrent prison term of 19-48 months for count II, a consecutive prison term of 12-40 months for count III, a consecutive prison term of 12-72 months for count IV, and a concurrent jail term of 12 months for count V. The district court ordered Sullivan to pay \$11,270 in restitution jointly and severally with her co-defendant.

On May 8, 2003, Sullivan filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The district court appointed counsel to represent Sullivan and counsel filed a supplement to

the petition. The State opposed the petition. After additional briefing by the parties and three evidentiary hearings, the district court, on October 4, 2007, entered an order denying Sullivan's petition. This timely appeal followed.

Sullivan contends that the district court erred by finding that trial counsel were not ineffective. Specifically, Sullivan claims that counsel were ineffective for (1) failing to explain that a plea offer was "off the table," and (2) recommending that she plead guilty to all of the charges without consideration from the State. Sullivan also claims that the State breached the spirit of the plea agreement by arguing for the maximum sentence. We disagree with Sullivan's contentions.

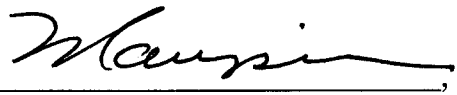
The district court found that Sullivan did not receive ineffective assistance of counsel. The district court's factual findings are entitled to deference when reviewed on appeal.¹ Sullivan has not demonstrated that the district court's findings of fact are not supported by substantial evidence or are clearly wrong. Moreover, Sullivan has not demonstrated that the district court erred as a matter of law. And finally, Sullivan has failed to demonstrate that the State breached the spirit of the plea agreement.² Therefore, we conclude that the district court did not err by denying Sullivan's habeas petition.

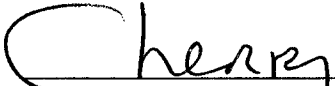
¹See Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994) (citing Strickland v. Washington, 466 U.S. 668 (1984)).

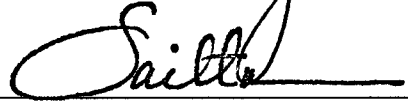
²See generally Van Buskirk v. State, 102 Nev. 241, 720 P.2d 1215 (1986).

Having considered Sullivan's contentions and concluded that they are without merit, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Maupin


_____, J.
Cherry


_____, J.
Saitta

cc: Hon. Jerome Polaha, District Judge
Mary Lou Wilson
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk