

IN THE SUPREME COURT OF THE STATE OF NEVADA

GREGORY LYNN FORD, SR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50783

FILED

AUG 13 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Gregory Ford's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

On September 14, 2004, the district court convicted Ford, pursuant to a jury verdict, of one count of possession of a controlled substance. The district court sentenced Ford to serve a prison term of 12 to 48 months. We dismissed Ford's untimely direct appeal.¹

On February 22, 2005, Ford filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The district court appointed counsel to represent Ford, and counsel filed a supplement to Ford's petition. The district court conducted an evidentiary hearing, determined that Ford had been deprived of his right to a direct appeal, and ordered Ford to "file a supplemental petition specifying all claims which challenge the conviction or sentence, including but not

¹Ford v. State, Docket No. 44118 (Order Dismissing Appeal, December 10, 2004).

limited to: (1) each issue of law which could have been raised on direct appeal; and (2) each issue of law which could be raised in a post-conviction proceeding.”

On February 8, 2006, pursuant to the district court order, Ford filed a supplemental petition, raising both direct appeal issues and post-conviction claims of ineffective assistance of counsel. The State opposed the petition. The district court conducted a hearing and denied the petition. On appeal, we affirmed the district court’s disposition of Ford’s direct appeal issues, reversed the district court’s order as it pertained to Ford’s post-conviction claims, and remanded the case “to the district court for the limited purpose of properly considering the ineffective assistance of counsel claims raised in Ford’s petition.”²

On August 23, 2007, the district court conducted an evidentiary hearing on Ford’s post-conviction claims of ineffective assistance of counsel, and it subsequently entered an order denying Ford’s petition. This appeal follows.

First, Ford contends that the district court abused its discretion by denying him new trial counsel based upon a conflict. However, in the court below, Ford claimed that he was denied effective assistance of counsel due to the “complete collapse of the attorney-client relationship.” Accordingly, we construe this claim on appeal as a claim that the district court erred in finding that Ford received effective assistance of counsel.

²Ford v. State, Docket No. 47635 (Order Affirming in Part, Reversing in Part and Remanding, December 21, 2006), at 3.

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, and that the petitioner was prejudiced by counsel's performance.³ The court need not consider both prongs of this test if the petitioner makes an insufficient showing on either prong.⁴ The district court's factual findings regarding ineffective assistance of counsel are entitled to deference when reviewed on appeal.⁵

Here, the district court found "that there was no breakdown in the attorney-client relationship, but, to whatever extent there was such a breakdown, it did not jeopardize Ford's right to a fair trial or effective assistance of counsel." During the evidentiary hearing, the district court heard testimony that defense counsel called Ford inappropriate names after Ford complained about the clothing that he was given to wear at trial. This exchange was brought to the attention of the trial court. The trial court asked Ford if he could set aside his dispute with defense counsel, work with defense counsel, and assist in his own defense. Ford responded that he could. The jury ultimately acquitted Ford of two of the three charged felonies. Under these circumstances, Ford has not demonstrated that the district court erred in finding that he received effective assistance of counsel.

³Kirksey v. State, 112 Nev. 980, 987, 923 P.2d 1102, 1107 (1996) (citing Strickland v. Washington, 466 U.S. 668, 687 (1987)).

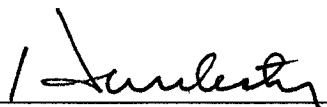
⁴See Strickland, 466 U.S. at 697.

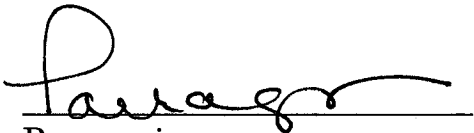
⁵Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994).

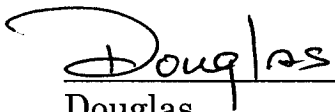
Second, Ford contends that the improper application of the Lozada remedy deprived him of his right to a direct appeal and effective assistance of counsel.⁶ Ford concedes that he raised a substantially similar claim in his previous appeal, which we rejected.⁷ “The doctrine of the law of the case cannot be avoided by a more detailed and precisely focused argument subsequently made after reflection upon the previous proceedings.”⁸ Accordingly, we decline to consider this contention.

Having considered Ford’s contentions and concluded that they are without merit or are not appropriately raised in this appeal, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

⁶Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

⁷See Ford, Docket No. 47635, at 9.

⁸Hall v. State, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975).

cc: Hon. Janet J. Berry, District Judge
Karla K. Butko
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk