

IN THE SUPREME COURT OF THE STATE OF NEVADA

RAUL RODRIGUEZ-PEREZ A/K/A  
FRANCISCO CONDE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 50785

**FILED**

DEC 02 2008

GRACE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant Raul Rodriguez-Perez's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

Rodriguez-Perez was convicted, pursuant to a jury verdict, of one count each of burglary, possession of stolen property, and eluding a police officer. The district court sentenced Rodriguez-Perez to serve two concurrent prison terms of 12-36 months and a consecutive prison term of 12-36 months, and ordered him to pay \$5,575 in restitution. This court affirmed the judgment of conviction and sentence on direct appeal.<sup>1</sup>

On March 9, 2006, Rodriguez-Perez filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The district court appointed counsel to represent Rodriguez-Perez and counsel filed a supplement to the petition. The State filed a motion to dismiss the

<sup>1</sup>Rodriguez-Perez v. State, Docket No. 46502 (Order of Affirmance, May 8, 2006).

petition and Rodriguez-Perez filed an opposition to the motion to dismiss. The district court granted the State's motion to dismiss in part and conducted an evidentiary hearing on the remaining claims. On June 5, 2007, the district court entered an order denying Rodriguez-Perez's petition. This timely appeal followed.

Rodriguez-Perez contends that he received ineffective assistance of trial and appellate counsel. Specifically, Rodriguez-Perez claims that (1) counsel was ineffective at trial and on appeal due to a conflict of interest, and that the district court erred by denying his motion to substitute counsel; (2) counsel was ineffective at trial and on appeal for failing to argue that his speedy trial rights were violated; and (3) he was improperly held without bail and that counsel was ineffective for failing to investigate and obtain bail and subsequently raise the issue in his direct appeal. We disagree.

The district court found that Rodriguez-Perez's testimony at the evidentiary hearing was not credible and that he did not receive ineffective assistance of counsel. The district court's factual findings are entitled to deference when reviewed on appeal.<sup>2</sup> Rodriguez-Perez has not demonstrated that the district court's findings of fact are not supported by substantial evidence or are clearly wrong. Moreover, Rodriguez-Perez has not demonstrated that the district court erred as a matter of law. Therefore, we conclude that the district court did not err by denying Rodriguez-Perez's petition.

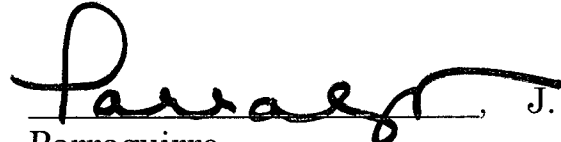
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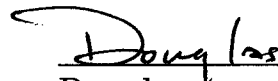
<sup>2</sup>See Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994).

Having considered Rodriguez-Perez's contentions and concluded that they are without merit, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Douglas

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