

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANDRAY ANTHONY GORDON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50956

FILED

DEC 03 2008

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant Andray Anthony Gordon's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge.

Gordon was convicted, pursuant to a guilty plea, of one count of attempted murder with the use of a firearm. The district court sentenced Gordon to serve two consecutive prison terms of 72-240 months. No direct appeal was taken.

On February 9, 2006, Gordon filed a timely proper person post-conviction petition for a writ of habeas corpus in the district court. The district court appointed counsel to represent Gordon and counsel filed a supplement to the petition. The State opposed the petition. On October 19, 2006, the district court entered an order dismissing the petition without conducting an evidentiary hearing. Gordon filed an appeal in this court, and in response, the State conceded that his claims of ineffective assistance of counsel were not repelled by the record. This court agreed

and remanded the matter to the district court with instructions to conduct an evidentiary hearing.¹ On remand, the district court conducted an evidentiary hearing and, on December 14, 2007, entered an order denying Gordon's petition. This timely appeal followed.

Gordon contends that the district court erred by denying his petition. Specifically, Gordon claims that (1) counsel was ineffective for failing to investigate and recommending that he enter a guilty plea despite not being capable of forming the intent to kill; (2) counsel was ineffective for improperly depriving him of his right to a direct appeal; and (3) he was not competent to enter a guilty plea, and therefore, his plea was invalid. We conclude that Gordon is not entitled to relief.

In its order denying the petition, the district court found that Gordon did not receive ineffective assistance of counsel.² The district court also found that Gordon's plea was entered knowingly, voluntarily, and intelligently. The district court's factual findings are entitled to deference when reviewed on appeal.³ Gordon has not demonstrated that the district court's findings of fact are not supported by substantial evidence or are clearly wrong. Moreover, Gordon 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 Gordon's petition.


¹Gordon v. State, Docket No. 48440 (Order Affirming in Part, Reversing in Part and Remanding, February 7, 2007).

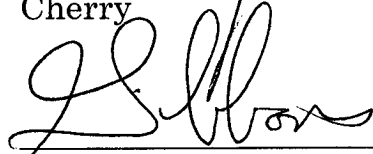
²See Strickland v. Washington, 466 U.S. 668 (1984).


³See Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994).

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

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Gibbons


_____, J.
Saitta

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