

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDDIE JAMES THOMAS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 51707

FILED

MAY 13 2009

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 a post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

On May 1, 2007, the district court convicted appellant, pursuant to a jury verdict, of five counts of statutory sexual seduction. The district court adjudicated appellant a habitual criminal and sentenced appellant to serve three consecutive terms of 96 to 240 months in the Nevada State Prison and two concurrent terms of 96 to 240 months. This court affirmed the judgment of conviction on direct appeal. Thomas v. State, Docket No. 49486 (Order of Affirmance, December 10, 2007). The remittitur issued on January 4, 2008.

On February 21, 2008, 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 conduct an evidentiary hearing. On May 1, 2008, the district court denied appellant's petition. This appeal followed.

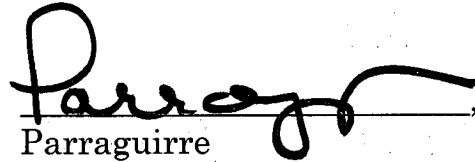
In his petition, appellant contended that he received ineffective assistance of trial counsel.¹ To state a claim of ineffective assistance of counsel sufficient to invalidate a judgment of conviction, a petitioner must demonstrate that counsel's performance was deficient in that it fell below an objective standard of reasonableness, and prejudice such that counsel's errors were so severe that they rendered the jury's verdict unreliable. Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Warden v. Lyons, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984) (adopting the test in Strickland). The court need not address both components of the inquiry if the petitioner makes an insufficient showing on either one. Strickland, 466 U.S. at 697.

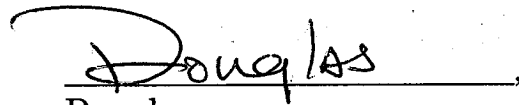
Appellant claimed that his trial counsel was ineffective for failing to file a motion to suppress his prior conviction of sexual assault or the allegation regarding the victim in the instant case that occurred in Texas. Appellant failed to demonstrate that his trial counsel's performance was deficient or that he was prejudiced. Trial counsel objected to the State's motion to admit this evidence. This court considered and rejected appellant's challenge to the admission of evidence relating to the prior conviction of sexual assault and the Texas charge on direct appeal. Because this court determined that the underlying claim lacked merit, appellant cannot demonstrate prejudice. Therefore, we conclude that the district court did not err in denying this claim.

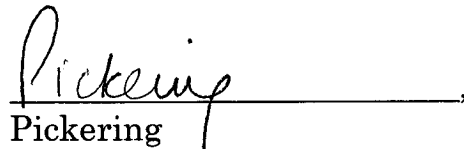
¹To the extent that appellant raised any claims independently from his claim of ineffective assistance of counsel, those claims were waived as they could have been raised on direct appeal, and appellant failed to demonstrate good cause for his failure to do so. NRS 34.810(1)(b).

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

ORDER the judgment of the district court AFFIRMED.²

 J.
Parraguirre

 J.
Douglas

 J.
Pickering

cc: Hon. Valorie Vega, District Judge
Eddie James Thomas
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

²We 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.