

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM RONALD CLARK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 51764

FILED

DEC 03 2009

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

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of one count of robbery with the use of a deadly weapon, one count of discharging a firearm out of a motor vehicle, and two counts of assault with a deadly weapon. Eighth Judicial District Court, Clark County; Valorie Vega, Judge. The district court adjudicated appellant William Ronald Clark a habitual criminal and sentenced him to serve four concurrent prison terms of 96 to 240 months, to run consecutively to the sentence in another criminal case.

First, Clark contends that the State violated Brady v. Maryland, 373 U.S. 83 (1963), by withholding evidence that would have impeached the credibility of two of the State's witnesses. Although Clark acknowledges that he did not file a discovery request, he claims that his constitutional right to conduct a full investigation and cross-examination of the witnesses was violated because the State failed to disclose that, in exchange for their testimony, two witnesses received favorable treatment


with respect to criminal charges associated with this case. We conclude that Clark's contention lacks merit.

“Brady and its progeny require a prosecutor to disclose evidence favorable to the defense when that evidence is material either to guilt or to punishment,” including evidence that “provides grounds for the defense . . . to impeach the credibility of the state's witnesses.” Mazzan v. Warden, 116 Nev. 48, 66, 67, 993 P.2d 25, 36, 37 (2000). In this case, the record contains no evidence beyond Clark's own assertion that two witnesses received favorable treatment with respect to criminal charges associated with this case in exchange for their testimony. The record also contains no evidence indicating that the State withheld any information regarding the two witnesses. Therefore, we conclude no Brady violation occurred.

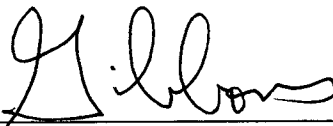
Second, Clark contends that he was denied his Sixth Amendment right to effective assistance of counsel. As a general rule, we will not consider claims of ineffective assistance of counsel on direct appeal; instead, these claims must be presented to the district court in the first instance in a post-conviction proceeding where factual uncertainties can be resolved in an evidentiary hearing. See Johnson v. State, 117 Nev. 153, 160-61, 17 P.3d 1008, 1013 (2001). We conclude that Clark has failed to provide this court with any reason to depart from this policy in his case. See id.; see also Archanian v. State, 122 Nev. 1019, 1036, 145 P.3d 1008, 1020-21 (2006). Accordingly, we decline to address this issue.

Having considered Clark's contentions and concluded that the issues lack merit or are not properly raised on appeal, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Valorie Vega, District Judge
Cristalli & Saggese, Ltd.
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk