

IN THE SUPREME COURT OF THE STATE OF NEVADA

CECIL LAMAR HALL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 51820

FILED

NOV 14 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
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 June 20, 2006, the district court convicted appellant, pursuant to a guilty plea, of one count of lewdness with a child under the age of fourteen years. The district court sentenced appellant to serve a term of life in the Nevada State Prison with the possibility of parole after ten years. The district court further imposed the special sentence of lifetime supervision. This court affirmed the judgment of conviction on direct appeal.¹ The remittitur issued on June 5, 2007.

On March 5, 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

¹Hall v. State, Docket No. 47659 (Order of Affirmance, May 9, 2007).

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

In his petition, appellant claimed that he received ineffective assistance of trial counsel. To state a claim of ineffective assistance of counsel sufficient to invalidate a judgment of conviction based on a guilty plea, a petitioner must demonstrate that his counsel's performance was deficient in that it fell below an objective standard of reasonableness, and resulting prejudice such that there is a reasonable probability that, but for counsel's errors, petitioner would not have pleaded guilty and would have insisted on going to trial.² The court need not address both components of the inquiry if the petitioner makes an insufficient showing on either one.³

First, appellant claimed that trial counsel was ineffective for failing to investigate after appellant informed trial counsel that he was innocent. Appellant failed to demonstrate that his trial counsel's performance was deficient or that he was prejudiced. Appellant failed to set forth what facts or evidence trial counsel failed to discover with further investigation. Appellant received a substantial benefit by entry of his guilty plea. In exchange for his guilty plea to one count of lewdness with a child under the age of fourteen years, appellant avoided going to trial on an additional fifteen counts of lewdness with a child under the age of fourteen years. Thus, appellant failed to demonstrate that there was a reasonable probability that he would have insisted on going to trial.

²Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Kirksey v. State, 112 Nev. 980, 987-88, 923 P.2d 1102, 1107 (1996).

³Strickland v. Washington, 466 U.S. 668, 697 (1984).

Therefore, we conclude that the district court did not err in denying this claim.

Second, appellant claimed that trial counsel was ineffective for allowing the district court to impose lifetime supervision. Appellant failed to demonstrate that his trial counsel's performance was deficient or that he was prejudiced. The district court was required to impose the special sentence of lifetime supervision due to appellant's conviction of the offense of lewdness with a child.⁴ Appellant was further informed of the penalty of lifetime supervision in the written guilty plea agreement, which appellant acknowledged reading, signing and understanding. Therefore, we conclude that the district court did not err in denying this claim.

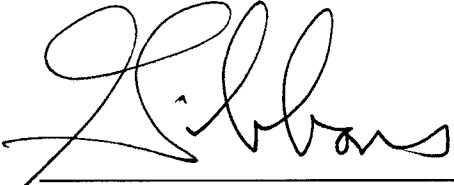
Third, appellant claimed that trial counsel was ineffective for failing to request further psychiatric evaluations. Appellant failed to demonstrate that his trial counsel's performance was deficient or that he was prejudiced. Appellant filed a presentence motion to withdraw a guilty plea alleging that he was not competent to enter a guilty plea. After considering evaluations by a psychiatrist and a psychologist, the district court determined appellant was competent and denied the motion. On direct appeal, appellant argued that the district court erred in denying his presentence motion to withdraw a guilty plea. This court rejected the claim noting that the evaluations that were performed deemed appellant competent. Appellant failed to provide any specific facts in support of his claim that trial counsel should have requested additional psychiatric

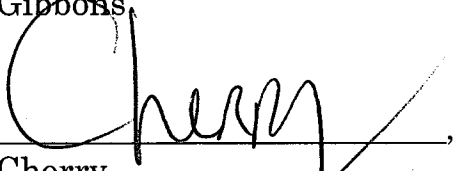
⁴NRS 176.0931(1), (5)(c)(1).

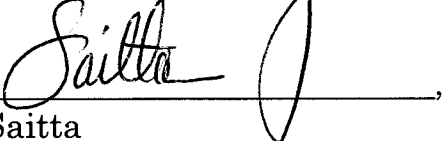
evaluations. Therefore, we conclude that the district court did not err in denying this claim.

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.⁵ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁶


_____, C.J.
Gibbons


_____, J.
Cherry


_____, J.
Saitta

cc: Hon. Valorie Vega, District Judge
Cecil Lamar Hall
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger

⁵See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁶We 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.

Eighth District Court Clerk