

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM WHITSETT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52387

FILED

JAN 07 2010

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; Kenneth C. Cory, Judge.

Appellant claimed that trial counsel was ineffective for failing to file an appeal after being requested to do so.

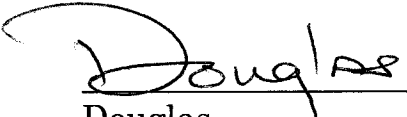
The district court found trial counsel's testimony—that he went through the plea agreement with appellant and explained appellant's limited right to appeal, that he did not know of any non-frivolous issues that would have successful on direct appeal, and that appellant never requested an appeal—to be credible. We conclude that the district court's findings were based upon substantial evidence and were not clearly wrong. See Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004).; Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994) (district court's factual findings regarding a claim of ineffective assistance of counsel are entitled to deference when reviewed on appeal). Based on those findings, we conclude that the district court did not err in denying this claim. See Hathaway v. State, 119 Nev. 248, 254, 71 P.3d 503, 507 (2003); Thomas v. State, 115 Nev. 148, 151, 979 P.2d 222, 224-25 (1999); Davis v. State, 115

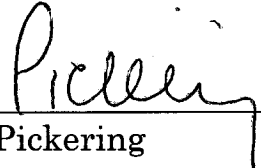
Nev. 17, 20, 974 P.2d 658, 660 (1999); see also Roe v. Flores-Ortega, 528 U.S. 470 (2000).

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

ORDER the judgment of the district court AFFIRMED.¹


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Kenneth C. Cory, District Judge
William Whitsett
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

¹We 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.