

IN THE SUPREME COURT OF THE STATE OF NEVADA

MANUEL STEVEN GUARDADO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52594

FILED

FEB 03 2010

ORDER OF AFFIRMANCE

TRACE K. LINGEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

This is an appeal from an order of the district court denying appellant Manuel Steven Guardado's timely, first post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

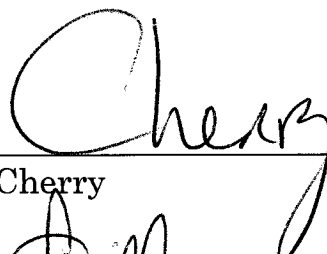
Guardado contends that the district court abused its discretion by denying his claims that defense counsel was ineffective for failing to (1) investigate the validity of his guilty plea and file a written motion for its withdrawal; (2) investigate the case and confer with him about the facts, legal issues, potential defense theories, and exculpatory evidence; and (3) present available defenses arising from his status as a temporary guest staying at his brother's apartment. We disagree.


When reviewing the district court's resolution of an ineffective-assistance claim, we give deference to the court's factual findings if supported by substantial evidence and not clearly erroneous but review the court's application of the law to those facts de novo. Lader v. Warden, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005). The court conducted an evidentiary hearing and found that (1) a written motion to withdraw the guilty plea had no reasonable probability of being granted,

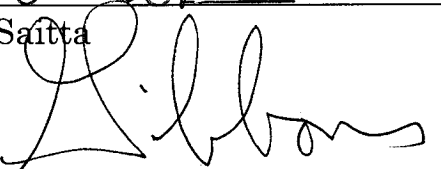
(2) "Guardado failed to prove that counsel did not conduct a reasonable investigation before advising him to accept the plea bargain," and (3) defense counsel knew that Guardado was a temporary guest at his brother's apartment and this fact would not have changed the outcome. The district court determined that Guardado did not receive ineffective assistance of counsel and denied the petition. See Hill v. Lockhart, 474 U.S. 52, 59 (1985); Strickland v. Washington, 466 U.S. 668, 687-88 (1984) (establishing two-part test for ineffective assistance of counsel); Kirksey v. State, 112 Nev. 980, 987-88, 923 P.2d 1102, 1107 (1996).

Our review of the record reveals that the district court's factual findings are supported by substantial evidence and are not clearly wrong. Moreover, Guardado has not demonstrated that the district court erred as a matter of law. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

¹We have reviewed the document that Guardado has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon its submission is warranted.

cc: Hon. Brent T. Adams, District Judge
Eric W. Lerude
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk
Manuel Steven Guardado