


IN THE SUPREME COURT OF THE STATE OF NEVADA

JIMMY MITCHELL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 52989

**FILED**

JUL 09 2009

TRACIA K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
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; Valerie Adair, Judge.

On July 13, 2007, the district court convicted appellant, pursuant to a jury verdict, of one count of sale of a controlled substance and one count of possession of a controlled substance with the intent to sell (third offense). The district court sentenced appellant to serve a term of 12 to 40 months for the sale count and a concurrent term of 36 to 120 months for the possession count. This court affirmed the judgment of conviction on appeal. Mitchell v. State, Docket No. 49627 (Order of Affirmance, January 23, 2008). The remittitur issued on February 19, 2008.

On August 8, 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 November 17, 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, 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 investigate and for failing to adequately communicate. Appellant failed to demonstrate that his trial counsel's performance was deficient or that he was prejudiced. Appellant failed to provide any specific facts supporting this claim. See Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984). Therefore, we conclude that the district court did not err in denying this claim.

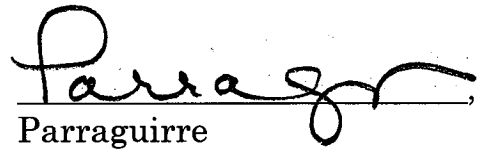
Next, appellant claimed that there was a conflict of interest created by the district court and counsel. Appellant failed to provide any specific facts in support of this claim, and thus, we conclude that the district court did not err in denying this claim. See id.

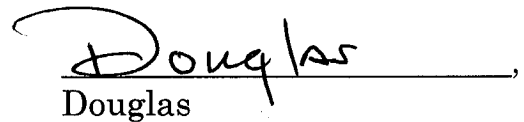
Finally, appellant claimed: (1) his speedy trial rights were violated; (2) jury instruction seven, relating to reasonable doubt and the presumption of innocence, was flawed; (3) the jury should have determined whether the possession count was appellant's third offense; and (4) insufficient evidence. These claims were considered and rejected on direct

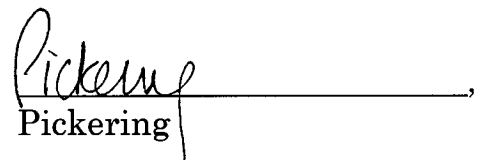
appeal. The doctrine of the law of the case prevents further litigation of these claims. See Hall v. State, 91 Nev. 314, 535 P.2d 797 (1975). Therefore, we conclude that the district court did not err in denying these claims.

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.<sup>1</sup>

 J.  
Parraguirre

 J.  
Douglas

 J.  
Pickering

cc: Hon. Valerie Adair, District Judge  
Jimmy Mitchell  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk

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<sup>1</sup>We 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.