

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES RONELL GREEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53812

FILED

MAR 10 2010

TRACIE 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.¹ Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

Appellant raised five claims that his trial counsel was ineffective. 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. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996). The court need not address both components of the inquiry if the petitioner makes an insufficient

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

showing on either one. Strickland v. Washington, 466 U.S. 668, 697 (1984).

First, appellant claimed that counsel was ineffective for failing to file a motion to suppress and a motion to dismiss based on insufficiency of the evidence. Appellant failed to demonstrate that he was prejudiced by counsel's failure to file these motions because he failed to demonstrate that either of these motions had a reasonable probability of success. See Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711 (1978). Therefore, the district court did not err in denying these claims.

Second, appellant claimed that counsel was ineffective for failing to contact two possible witnesses. Appellant failed to allege what information these witnesses would have provided, and therefore, failed to demonstrate his trial counsel's performance was deficient or that he was prejudiced. Hargrove v. State, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). Therefore, the district court did not err in denying this claim.

Third, appellant claimed that trial counsel was ineffective for failing to protect his right to a speedy trial. Appellant failed to demonstrate that counsel was ineffective because appellant specifically waived his right to a speedy trial. Therefore, the district court did not err in denying this claim.

Fourth, appellant claimed that counsel did not provide appellant with his entire case file. Appellant failed to demonstrate that he was prejudiced by counsel's performance because appellant failed to demonstrate that any of his claims in his petition would have been successful had he had his entire file. Therefore, the district court did not err in denying this claim.

Fifth, appellant claimed that his plea was not voluntary because trial counsel forced appellant to enter a guilty plea. Appellant claimed that trial counsel told appellant that he would be sentenced as a habitual criminal if he did not take the plea bargain and would not investigate his case or file a motion to suppress. Appellant failed to demonstrate that counsel was deficient or that his plea was involuntary. First, candid advice about the possible outcome at trial or sentencing is not evidence of deficient performance. Further, appellant acknowledged in the guilty plea agreement that he discussed all possible defenses with counsel, that his guilty plea was voluntary, that he signed with the advice of counsel, and that his plea was not the result of any threats, coercion, or promises of leniency. The voluntariness of the plea was reinforced by appellant's answers at the plea canvass. Therefore, the district court did not err in denying this claim.

Finally, appellant claimed that his Fourth Amendment rights were violated because law enforcement conducted a warrantless search and because he was arrested without probable cause. These claims should have been raised on direct appeal and were therefore waived absent a demonstration of good cause and prejudice. NRS 34.810(1)(b)(2). Appellant claimed that his counsel did not inform appellant of his right to appeal. Appellant did not request an appeal and because appellant pleaded guilty, trial counsel was not required to inform appellant of the right to appeal unless there "exist[ed] a direct appeal claim that ha[d] a reasonable likelihood of success." Thomas v. State, 115 Nev. 148, 150, 979 P.2d 222, 223 (1999). Appellant failed to demonstrate that any of his claims had a reasonable likelihood of success on appeal, and therefore, failed to demonstrate good cause and prejudice to overcome the procedural

bar. Therefore, the district court did not err in denying these claims.
Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Elissa F. Cadish, District Judge
Charles Ronell Green
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk