

IN THE SUPREME COURT OF THE STATE OF NEVADA

ISRAEL LOPEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53892

FILED

JUN 10 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant's post-conviction petition for writ of habeas corpus. Eighth Judicial District Court, Clark County; Kathy A. Hardcastle, Judge.

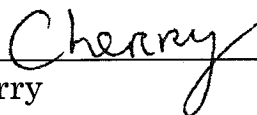
Appellant first claims that this matter should be remanded to the Honorable Kathleen Delaney, who presided over the evidentiary hearing, to make "appropriate" findings because the order below is "rife with errors" and was signed by the Honorable Kathy A. Hardcastle, who neither presided over the hearing nor had access to the transcripts. Nearly all of the "errors" alleged by appellant are simply findings of fact with which appellant disagrees but that are supported by substantial evidence and are not clearly erroneous, as well as appropriate conclusions of law based on those facts. See Lader v. Warden, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005). The order does contain one factual error: It States that Judge Hardcastle presided over the evidentiary hearing. Further, the order was signed by Judge Hardcastle rather than Judge Delaney. However, as these discrepancies do not affect appellant's


substantial rights,¹ see NRS 178.598, we conclude that appellant is not entitled to relief based on these claims.


Appellant also claims that the sentencing court erred in not allowing him a full opportunity to explain why he wanted to withdraw his guilty plea. Although appellant argued below that his guilty plea was involuntary, he does not raise this argument on appeal, nor does he argue that he received ineffective assistance of counsel. Accordingly, appellant's claim is not permissible in a post-conviction petition for a writ of habeas corpus. See NRS 34.810(1)(a). Moreover, the claim he raises on appeal was not raised below, and we decline to address it here in the first instance. See Davis v. State, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991), overruled on other grounds by Means v. State, 120 Nev. 1001, 1012-13, 103 P.3d 25, 33 (2004).

For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

¹Appellant makes a bare claim that this violated his due process rights, but he cites no authority in support of that proposition. See Maresca v. State, 103 Nev. 669, 672-73, 748 P.2d 3, 6 (1997). Accordingly, we decline to consider this claim.

cc: Hon. Kathy A. Hardcastle, District Judge
Hon. Kathleen Delaney, District Judge
Keith C. Brower
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk