

IN THE SUPREME COURT OF THE STATE OF NEVADA

ERNEST DEAN CARPENTER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54542

FILED

MAR 17 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY: *[Signature]*
DEPUTY CLERK


ORDER OF AFFIRMANCE

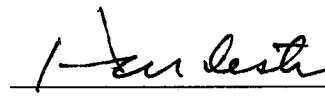
This is an appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.


On appeal, appellant claims that the district court erred by denying his claim that he received ineffective assistance of counsel at sentencing. Specifically, appellant claims that trial counsel was ineffective for failing to present a psychological examination report to the district court in order to mitigate his sentence. Appellant failed to demonstrate that counsel was deficient or that he was prejudiced. 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). It is not clear that the psychological examination report would have been mitigating. The statements that appellant made to the psychologist contradicted statements he made to the police, which were included in the presentence report. Moreover, even though appellant's reasons for committing the crime may have been based on delusional thoughts, appellant's statements to the psychologist demonstrate that he knew what he was doing was wrong. Further, appellant failed to

demonstrate a reasonable probability that he would have received a different sentence had counsel presented the psychological examination report. Id. The district court at sentencing made it clear that appellant received life without the possibility of parole because of his lengthy criminal history and the fact that he never demonstrated in the past that he could be rehabilitated despite numerous chances to do so. Therefore, the district court did not err in denying the petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Patrick Flanagan, District Judge
Glynn B. Cartledge
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk