

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD VELLA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54561

FILED

JUN 10 2010

ORDER OF AFFIRMANCE

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY J. Shoo
DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant's post-conviction petition for writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

In his petition, filed on May 12, 2009, appellant claimed he received ineffective assistance of trial counsel. To prove a claim of ineffective assistance of counsel sufficient to invalidate a judgment of conviction based on a guilty plea, a petitioner must demonstrate (a) that his counsel's performance was deficient in that it fell below an objective standard of reasonableness and (b) resulting prejudice in that there is a

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).

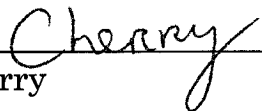
reasonable probability that, but for counsel's errors, petitioner would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996). Both components of the inquiry must be shown. Strickland v. Washington, 466 U.S. 668, 697 (1984).


Appellant first claimed that counsel was ineffective for not conducting any investigation prior to advising appellant to plead guilty. Appellant did not demonstrate deficiency or prejudice. Appellant failed to provide any factual support for this bare, naked claim, and there was no support for it in the record. See Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). Further, appellant failed to identify what the fruits of any investigation would be or to demonstrate a reasonable probability of a different outcome. We therefore conclude the district court did not err in denying this claim.


Appellant also claimed that counsel was ineffective for telling him that he would receive a sentence concurrent to that imposed in another case. Appellant did not demonstrate prejudice. Appellant had acknowledged his understanding in his guilty plea agreement and during his plea colloquy that his sentence was up to the discretion of the district court. Further, he acknowledged in his guilty plea agreement that he had not been guaranteed any particular sentence. Moreover, appellant received a substantial benefit by entry of his plea as he avoided the risk of a greater sentence on the original charges had he proceeded to trial. Accordingly, appellant failed to demonstrate a reasonable probability that he would not have pleaded guilty but would have insisted on going to trial

had counsel told him the sentence would be consecutive to that imposed in another case. We therefore conclude the district court did not err in denying this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

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