IN THE SUPREME COURT OF THE STATE OF NEVADA

LAWRENCE TRAMEL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54734

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; David B. Barker, Judge.

In his petition filed on June 10, 2009, appellant raised four claims of ineffective assistance of counsel. To show ineffective assistance of counsel, a petitioner must demonstrate that counsel's performance was deficient in that it fell below an objective standard of reasonableness, and prejudice such that there is a reasonable probability of a different outcome in the proceedings. 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). In order to show prejudice sufficient to invalidate the decision to enter a guilty plea, a petitioner must demonstrate that he would not have pleaded guilty and would have

[1]This 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 Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

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. Strickland, 466 U.S. at 697.

First, appellant claimed that his trial counsel was ineffective for failing to investigate his claim that he was working and living in South Dakota when the crime was committed. Appellant failed to demonstrate that his trial counsel's performance was deficient or that he was prejudiced. The record indicates that appellant admitted to the police that he sexually assaulted his sister and committed conduct that would amount to open or gross lewdness. Appellant failed to indicate how an investigation would have produced favorable, exculpatory evidence in light of his admission. Appellant received a benefit by pleading guilty to one count of attempted sexual assault as he avoided going to trial on the original charges of two counts of sexual assault and one count of open or gross lewdness. Appellant failed to demonstrate by a reasonable probability that he would have insisted on going to trial under these circumstances. Therefore, the district court did not err in denying this claim.

Next, appellant claimed that his trial counsel was ineffective for failing to visit him and spend adequate time with him to prepare a defense and failing to have him evaluated before advising him to enter a guilty plea. Appellant failed to provide any specific facts in support of these claims, and thus, he failed to demonstrate that his trial counsel was ineffective. Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984). Therefore, the district court did not err in denying these claims.

Finally, appellant claimed that his trial counsel was ineffective for failing to argue appellant's extensive abuse history was a

mitigating factor. Trial counsel did present the district court with appellant's abusive childhood history at a bench conference at sentencing. Appellant failed to demonstrate by a reasonable probability that his sentence would have been different had trial counsel presented further argument in this vein. Therefore, the district court did not err in denying this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.[2]

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Hon. David B. Barker, District Judge
Lawrence Tramel
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

---

[2]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.