

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANCISCO SEGURA-GALVIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54793

FILED

MAR 18 2011

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

ORDER OF AFFIRMANCE

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

Appellant argues that the district court erred in dismissing his claims of ineffective assistance of trial counsel without conducting an evidentiary hearing. To prove 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). Both components of the inquiry must be shown. Strickland v. Washington, 466 U.S. 668, 697 (1984). To warrant an evidentiary hearing, a petitioner must raise claims that are supported by specific factual allegations that are not belied by the record and, if true, would entitle him to relief. Hargrove v. State, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

First, appellant argues that his counsel was ineffective for advising him that he would serve his sentence in a prison camp and earn good time credits pursuant to NRS 209.4465. However, appellant alleges, the federal government placed an immigration detainer on him and he asserts the detainer means that he cannot earn those credits. Appellant fails to demonstrate that he was prejudiced. Appellant fails to demonstrate that he would have refused to plead guilty had he been further informed concerning good time credits and his placement in the prison system because appellant acknowledged in the guilty plea agreement that he entered his guilty plea in exchange for the State's recommendation of a sentence of 24 to 72 months. In addition, NRS 209.4465 does not preclude appellant from earning good time credits due to his immigration status. Therefore, appellant fails to demonstrate that the district court erred in dismissing this claim without conducting an evidentiary hearing.¹


Second, appellant argues that his trial counsel was ineffective for failing to investigate the constitutional validity of his prior DUI convictions and for failing to discuss his right to appeal. Appellant fails to provide cogent argument as to how or why the district court erred in dismissing these claims. "It is appellant's responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court." Maresca v. State, 103 Nev. 669, 673, 748 P.2d

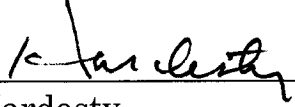
¹To the extent that appellant claims the failure to house him at a prison camp is improper, this challenges the conditions of confinement, and a post-conviction petition for a writ of habeas corpus is not the proper vehicle to raise such challenges. Bowen v. Warden, 100 Nev. 489, 686 P.2d 250 (1984).

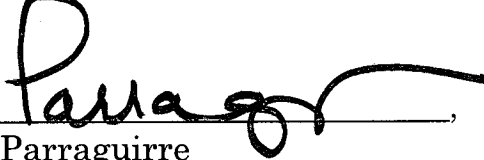
3, 6 (1987). Therefore, appellant fails to demonstrate that he is entitled to relief for these claims.

Next, appellant alleges that his post-conviction counsel in the district court proceedings failed to actively represent his interests because he did not file a supplemental petition or perform investigation. There is no right to effective assistance of counsel in post-conviction proceedings. McKague v. Warden, 112 Nev. 159, 164, 912 P.2d 255, 258 (1996). Therefore, appellant fails to demonstrate he is entitled to relief. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Steven P. Elliott, District Judge
Karla K. Butko
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk