

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL ROBERT GALUSHA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 54799

**FILED**

JUN 09 2010

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

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.<sup>1</sup> Eighth Judicial District Court, Clark County; Jennifer Togliatti, Judge.

In his petition filed on May 21, 2009, appellant claimed that his counsel was ineffective at the probation revocation hearing by failing to call witnesses to testify, failing to introduce evidence, and failing to raise important issues.

Even assuming appellant was entitled to the effective assistance of counsel during the probation revocation hearing, see Gagnon

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<sup>1</sup>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 Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

v. Scarpelli, 411 U.S. 778, 790 (1973), appellant failed to demonstrate that 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, the outcome of the proceedings would have been different. 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). At the revocation hearing, E. Ramsdell testified on appellant's behalf and appellant failed to identify any other witnesses that could have testified. Further, appellant failed to identify what evidence should have been introduced and what issues he wanted to be raised. Hargrove v. State, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). Finally, there was overwhelming evidence introduced at the hearing that appellant had violated the terms of his probation. See Lewis v. State, 90 Nev. 436, 438, 529 P.2d 796, 797 (1974). Therefore, the district court did not err in denying this claim.

Next, appellant claimed that his due process rights were violated because the district court did not allow him to introduce evidence at the hearing, call witnesses, or issue subpoenas. Appellant failed to demonstrate that his due process rights were violated. Appellant did call a witness to testify on his behalf and failed to identify any other witnesses or evidence that he was prevented from presenting at the hearing. See Gagnon, 411 U.S. at 782; Anaya v. State, 96 Nev. 119, 122, 125, 606 P.2d 156, 157-58, 160 (1980); Hargrove, 100 Nev. at 502-03, 686 P.2d at 225.

Therefore, the district court did not err in denying this claim. Accordingly,  
we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

Cherry, J.  
Cherry

Saitta, J.  
Saitta

Gibbons, J.  
Gibbons

cc: Hon. Jennifer Togliatti, District Judge  
Daniel Robert Galusha  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>2</sup>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.