

IN THE SUPREME COURT OF THE STATE OF NEVADA

RAMON RODRIGUEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55241

FILED

JAN 13 2011

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

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Ramon Rodriguez's motion to withdraw a guilty plea. Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

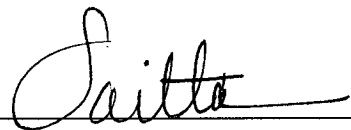
Rodriguez was convicted, pursuant to a guilty plea, of attempted possession of a controlled substance. Rodriguez claims that his counsel provided ineffective assistance by failing to specifically advise him of the immigration consequences of his plea, thus creating a manifest injustice permitting him to withdraw it. See NRS 176.165. His claim is without merit.

Rodriguez did not inform counsel that he was an undocumented alien, instead stating that immigration "was not an issue." Counsel nevertheless discussed possible immigration consequences with him, and the written guilty plea agreement informed Rodriguez that if he was a non-citizen he could be deported or denied naturalization. Rodriguez's mistaken belief that he could avoid any immigration consequences by marrying his fiancé, a U.S. citizen, is not imputed to counsel as he never informed counsel of this belief. He thus failed to show that counsel's performance was deficient, see Padilla v. Kentucky, 559

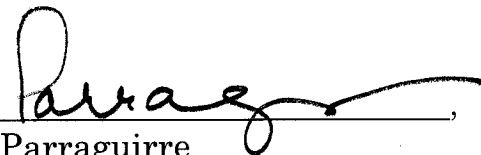
U.S. ___, ___, 130 S. Ct. 1473, 1482 (2010); Strickland v. Washington, 466 U.S. 668, 687-88 (1984), and the district court did not clearly abuse its discretion in denying the motion. See Riker v. State, 111 Nev. 1316, 1322, 905 P.2d 706, 710 (1995) (quoting Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986)).

Having considered Rodriguez's claim and concluded that no relief is warranted, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Valorie Vega, District Judge
Xavier Gonzales
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk