


IN THE SUPREME COURT OF THE STATE OF NEVADA

JEFFREY SCOTT TRAMMEL,
Appellant,
vs.
THE STATE OF NEVADA AND
WARDEN, GREGORY SMITH,
Respondents.

No. 55753

FILED

SEP 09 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order dismissing appellant Jeffrey Scott Trammel's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

Trammel contends that the district court erred by finding that trial counsel was not ineffective for (1) "allowing" him to plead guilty to burglary, (2) failing to advise him about the elements of burglary, (3) failing to inform him "that he could plead a diminished capacity because of his mental state," (4) failing to properly inform him about the potential sentence he was facing, and (5) failing to advise him about appellate issues. Notably, Trammel does not specifically address or challenge the district court's findings in dismissing his petition.

When reviewing the district court's resolution of an ineffective-assistance claim, we give deference to the court's factual findings if they are supported by substantial evidence and not clearly erroneous but review the court's application of the law to those facts de novo. Lader v. Warden, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005).

Here, the district court found that either trial counsel was not deficient or that Trammel failed to demonstrate prejudice. See Strickland v. Washington, 466 U.S. 668, 687 (1984); Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996). The district court also found that Trammel's claims did not warrant an evidentiary hearing because they were either repelled by the record or not pleaded with the requisite factual specificity. See Mann v. State, 118 Nev. 351, 354, 46 P.3d 1228, 1230 (2002); Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). The district court's findings are supported by substantial evidence and not clearly wrong, and Trammel has not demonstrated that the district court erred as a matter of law. Therefore, we conclude that the district court did not err by dismissing Trammel's petition and we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Janet J. Berry, District Judge
Jeffrey S. Blanck
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk