

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES HENRY BAX,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55797

FILED

SEP 09 2010

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting a motion to dismiss appellant Charles Henry Bax's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

Bax contends that the district court erred by dismissing, without an evidentiary hearing, his claim that defense counsel was ineffective for failing to call witnesses or present any argument at sentencing. We disagree.

"A post-conviction habeas petitioner is entitled to an evidentiary hearing only if he supports his claims with specific factual allegations that if true would entitle him to relief." Means v. State, 120 Nev. 1101, 1016, 103 P.3d 25, 35 (2004) (internal quotation marks omitted). The district court found that an evidentiary hearing was not warranted and Bax's contention lacked "the specificity required to bring a successful claim." Bax has not demonstrated that the district court erred by denying the petition or by declining to hold an evidentiary hearing. See NRS 34.770(2); 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).

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Brent T. Adams, District Judge
Hardy Law Group
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk