

IN THE SUPREME COURT OF THE STATE OF NEVADA

FEDERICO JIMENEZ A/K/A  
FREDERIC C. JIMENEZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 56212

**FILED**

**FEB 09 2011**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY J. M. P.  
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; Donald M. Mosley, Judge.

In his petition filed on March 10, 2010, appellant claimed that counsel was ineffective for failing to object to the contention in the PSI that he was an illegal alien and for failing to argue for probation or the sentence recommended in the PSI. Appellant failed to demonstrate that he was prejudiced because he failed to demonstrate a reasonable probability of a different outcome had counsel objected to appellant's status as listed in the PSI or had counsel argued for probation or the recommendation made in the PSI. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996). Appellant stipulated to a sentence of five to twenty years and the district

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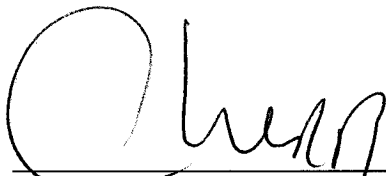
<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

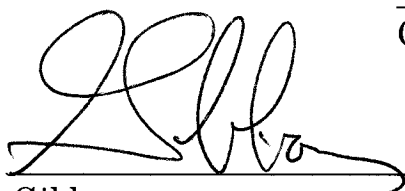
court imposed that sentence. Therefore, the district court did not err in denying this claim.

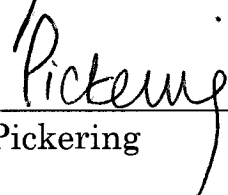
Next, appellant claimed that his guilty plea was not entered voluntarily, knowingly, and intelligently because of the recommendation contained in the PSI. Appellant failed to demonstrate that his plea was invalid because he entered his plea prior to the PSI being completed. See Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986); see also Hubbard v. State, 110 Nev. 671, 675, 877 P.2d 519, 521 (1994). Therefore, the district court did not err in denying this claim.

Finally, appellant claimed that the PSI violated the guilty plea agreement. This claim is outside the scope of claims permissible in a post-conviction petition for a writ of habeas corpus challenging a judgment of conviction based on a guilty plea. NRS 34.810(1)(a). Therefore, the district court did not err in denying this claim. Accordingly, we

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

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Pickering

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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.

cc: Hon. Donald M. Mosley, District Judge  
Federico Jimenez  
Frederic C. Jimenez  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk