

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL GONZALES SANDOVAL
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56735

FILED

SEP 14 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *R. Malone*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Daniel Sandoval's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Sandoval was charged with various counts relating to the sexual and physical abuse of his children. He pleaded guilty to battery with the intent to commit sexual assault upon a child under 14 years of age and child endangerment. This court affirmed Sandoval's convictions on direct appeal. Sandoval v. State, Docket No. 48777 (Order of Affirmance, March 6, 2008). Sandoval then filed a timely post-conviction petition for a writ of habeas corpus, raising claims of ineffective assistance of trial counsel and attacking the validity of his guilty plea. The district court denied his petition following an evidentiary hearing and Sandoval now appeals, raising two claims of error.

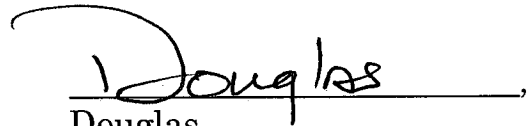
First, Sandoval claims that his trial attorney coerced him into pleading guilty. Both the attorney and Sandoval testified at the

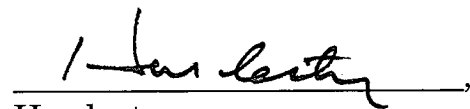
evidentiary hearing. The district court found that Sandoval's assertion that the attorney used the threat of the State pursuing further charges to induce his plea to be incredible and that the attorney's disavowal of any such coercion to be convincing. We defer to the district court's determination of credibility where, as here, it is supported by substantial evidence. Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994). Accordingly, we cannot conclude that the district court abused its discretion in determining that Sandoval's plea was voluntarily entered. See Crawford v. State, 117 Nev. 718, 721-22, 30 P.3d 1123, 1125-26 (2001).

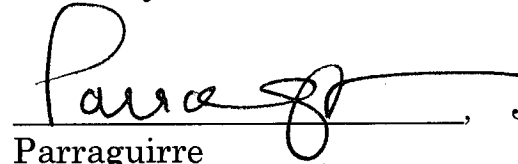
Second, Sandoval claims that his trial attorney was ineffective for failing to thoroughly investigate his case and provide an interpreter. Not only did the district court find that the attorney's testimony regarding the extensive preparation she undertook to be more convincing than Sandoval's assertions to the contrary, but it also noted Sandoval's failure to demonstrate that any new evidence would have changed his decision to plead guilty. Additionally, his assertions that counsel failed to provide an interpreter or that he could not effectively communicate with her in English are belied by the record. We therefore conclude that Sandoval failed to meet his burden of proving that counsel's performance was deficient or that, but for counsel's allegedly deficient performance, he would not have pleaded guilty and would have insisted on proceeding with the trial. See Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996); Hill v. Lockhart, 474 U.S. 52, 58-59 (1985).

Having considered Sandoval's claims and concluded that no relief is warranted, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Connie J. Steinheimer, District Judge
Edward T. Reed
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk