

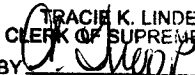
IN THE SUPREME COURT OF THE STATE OF NEVADA

ADAN DURAN SANCHEZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 56896

**FILED**

**MAY 10 2011**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting a motion to dismiss appellant Adan Duran Sanchez's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

Sanchez contends that the district court abused its discretion by dismissing his petition without an evidentiary hearing. We conclude that Sanchez has failed to demonstrate that the district court erred by declining to hold an evidentiary hearing because his claims were not supported by "specific factual allegations that if true would entitle him to relief." Means v. State, 120 Nev. 1001, 1016, 103 P.3d 25, 35 (2004) (internal quotation marks omitted).

Sanchez also contends that the district court abused its discretion by dismissing his claims that trial counsel was ineffective for failing to (1) explain about the possibility of obtaining a reduced sentence for providing substantial assistance pursuant to NRS 453.3405, (2) file a direct appeal, and (3) advise him of his right to file a direct appeal. When reviewing the district court's resolution of an ineffective-assistance claim, we give deference to the court's factual findings if 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).

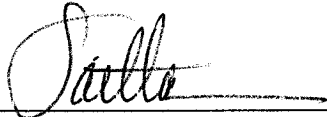
With regard to his first claim, the district court determined that Sanchez did not have a right to render substantial assistance, see Matos v. State, 110 Nev. 834, 838, 878 P.2d 288, 290 (1994), and failed to articulate sufficient factual support and demonstrate prejudice because he did not allege what assistance he would have provided. See Hargrove v. State, 100 Nev. 498, 503, 686 P.2d 222, 225 (1984). Substantial evidence supports the district court's finding and Sanchez failed to demonstrate that the district court erred as a matter of law. See Strickland v. Washington, 466 U.S. 668, 687 (1984) (establishing two-part test for ineffective assistance of counsel); Kirksey v. State, 112 Nev. 980, 987-88, 923 P.2d 1102, 1107 (1996).

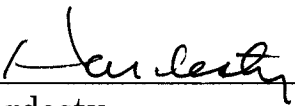
Regarding Sanchez's second and third claims, the district court found that he did not put his counsel on notice that he wanted to appeal. Substantial evidence supports this finding, and we conclude that Sanchez has failed to demonstrate that the district court erred as a matter of law by denying these claims. See Means, 120 Nev. at 1015, 103 P.3d at 34 (counsel must file an appeal if a defendant expresses dissatisfaction with his conviction or expresses the desire to appeal); Thomas v. State, 115 Nev. 148, 150, 979 P.2d 222, 223 (1999) (counsel has an obligation to advise the defendant of the right to appeal if the defendant inquires or has a direct appeal claim with a reasonable chance of success).

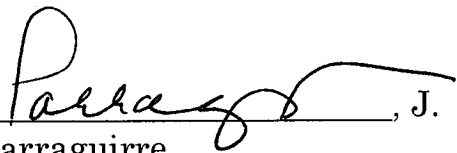
Finally, Sanchez contends that the district court abused its discretion by dismissing his claim that the trial court abused its discretion at sentencing. Sanchez did not make an independent claim, either in the petition or supplemental petition, that the trial court abused its discretion

at sentencing, and does not assert good cause and prejudice for not raising these issues below. Accordingly, this claim is not appropriately addressed on appeal in the first instance, see McNelson v. State, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999), and we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Janet J. Berry, District Judge  
Karla K. Butko  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk