

IN THE SUPREME COURT OF THE STATE OF NEVADA

RONALD W. RANGEL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56901

FILED

MAY 10 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Ronald Rangel's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; David B. Barker, Judge.


Rangel contends that the district court erred by denying his claim that counsel was ineffective for failing 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). The district court conducted an evidentiary hearing, found Rangel presented no evidence that he asked defense counsel to file an appeal, and determined that defense counsel rendered effective assistance. 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); see also Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004) (petitioner bears the burden of proving ineffective assistance). The district court's factual finding is supported by substantial evidence and is not

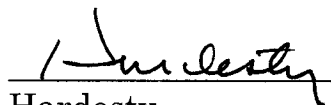
clearly wrong. And Rangel has not demonstrated that the district court erred as a matter of law.

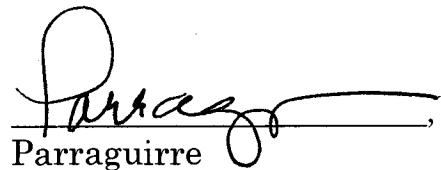
Rangel also claims that the district court erred by denying his claim that counsel was ineffective for failing to appeal the denial of his motion to correct an illegal sentence. We decline to consider this claim because it was not raised in Rangel's habeas petition and he has not alleged cause and prejudice for failing to present it to the district court in the first instance. See Hill v. State, 114 Nev. 169, 178, 953 P.2d 1077, 1084 (1998).

Having considered Rangel's contentions and concluded that he is not entitled to relief, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. David B. Barker, District Judge
Law Office of Betsy Allen
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk