

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSEPH EMANUAL LAWRENCE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56957

FILED

JUL 14 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Medina*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Joseph Emanuel Lawrence's timely, first post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Abbi Silver, Judge.


First, Lawrence contends that the district court erred by finding that his guilty plea was entered knowingly, intelligently, and voluntarily because he was not competent, his mental condition made him susceptible to coercion, and defense counsel failed to address the reservations he expressed about his guilty plea at sentencing. "[W]e will presume that the lower court correctly assessed the validity of the plea, and we will not reverse the lower court's determination absent a clear showing of an abuse of discretion." Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986). The district court conducted an evidentiary hearing and found that Lawrence was competent and was not coerced into entering the guilty plea, the plea was properly entered, and the district court addressed the mental health concerns Lawrence raised during sentencing and did not find him incompetent. The record supports the district court's findings and repels Lawrence's contention that his guilty plea was entered unknowingly, unintelligently, and involuntarily.

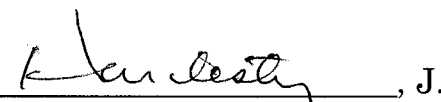
Second, Lawrence contends that the district court erred by finding that he received effective assistance of counsel despite evidence that defense counsel did not investigate his mental illness to determine whether it provided a defense to the specific intent crimes of first-degree kidnapping and attempted murder. 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 and found that defense counsel investigated Lawrence's past mental illness, considered an insanity defense, and concluded that Lawrence's illness did not meet the necessary criteria for a successful insanity defense. The district court determined that Lawrence failed to demonstrate that defense counsel's representation fell below an objective standard of reasonableness and there was a reasonable probability that the result of the proceeding would have been more favorable if counsel had proceeded differently. 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) (applying Strickland when judgment arises from a guilty plea); 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 findings are supported by substantial evidence and are not clearly wrong. And Lawrence has not demonstrated that the district court erred as a matter of law.

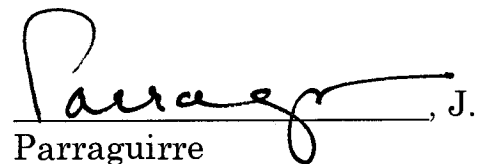
Third, Lawrence contends that the district court erred by failing to make specific findings and accept argument at the evidentiary hearing on his claim that he was “deprived access to resources to prepare a defense to his case.” In his petition, Lawrence claimed that defense counsel was ineffective for failing to provide him with the resources necessary to present an insanity defense. However, Lawrence failed to demonstrate “a reasonable probability that, but for counsel’s errors, he would not have pleaded guilty and would have insisted on going to trial.” Hill v. Lockhart, 474 U.S. 52, 59 (1985). Accordingly, we conclude that the district court did not err by denying this claim.

Having considered Lawrence’s contentions and concluded that they are without merit, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Abbi Silver, District Judge
Law Offices of Cynthia Dustin, LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk