

IN THE SUPREME COURT OF THE STATE OF NEVADA

DARIN SHEA SWEDIN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 57094

DARIN SHEA SWEDIN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 57095

**FILED**

**JUN 08 2011**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER OF AFFIRMANCE

These are consolidated appeals from (1) district court orders partially granting and dismissing appellant Darin Shea Swedin's post-conviction petition for a writ of habeas corpus and (2) an amended and corrected amended judgment of conviction. Second Judicial District Court, Washoe County; Jerome Polaha, Judge.

Swedin raises several issues related to the 2005 amendment to NRS 484.3792 (currently codified as NRS 484C.410), which he claims amounts to an ex post facto violation. See 2005 Nev. Stat. Spec. Sess., ch. 6, § 15, at 103. Specifically, Swedin contends that the district court abused its discretion by dismissing his petition because (1) counsel was ineffective for failing to investigate the prior convictions used for enhancement purposes and challenge the constitutionality of the amendment to former NRS 484.3792, (2) his plea to felony DUI in 1996 was invalid because he was not advised that it could be used to enhance a subsequent DUI to a felony, and (3) the State breached the plea

agreements in 1990, 1991, and 1996 by charging him with a felony in the instant case. We disagree with Swedin's contentions.

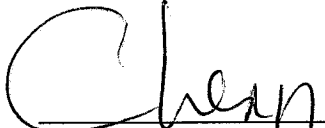
When reviewing the district court's resolution of an ineffective-assistance claim, we give deference to the court's factual findings if supported by substantial evidence and not clearly erroneous but review the court's application of the law to those facts de novo. Lader v. Warden, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005). Here, the district court properly rejected Swedin's ineffective-assistance claims because the instant offense occurred after the 2005 amendment to former NRS 484.3792 took effect and, therefore, the felony DUI conviction did not amount to an ex post facto violation. See Strickland v. Washington, 466 U.S. 668, 687 (1984) (establishing two-part test for ineffective assistance of counsel); Dixon v. State, 103 Nev. 272, 274 & n.2, 737 P.2d 1162, 1164 & n.2 (1987). The district court also properly rejected Swedin's challenge to his 1996 plea by finding that "[t]here is no recognized duty to advise a defendant about future unseen and unknowable changes in the law or the potential consequences of the defendant's future conduct." See Nollette v. State, 118 Nev. 341, 344, 46 P.3d 87, 89 (2002). And finally, Swedin has failed to provide any cogent or persuasive argument and therefore we reject his claim that the State somehow breached the plea agreements in his three prior DUIs by charging him with a felony in the instant case. See generally Maresca v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) ("It is appellant's responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court.").


Swedin also claims that counsel was ineffective for failing to allow him to address the sentencing court. Swedin's claim is not supported by the record and happens to be raised for the first time on


appeal. See id. Additionally, when it considered Swedin's habeas petition the district court granted him a new sentencing hearing based on the parties' stipulation, thus remedying any alleged error occurring at the original sentencing hearing.

Having concluded that Swedin is not entitled to relief, we

ORDER the judgments of the district court and amended judgments of conviction AFFIRMED.

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

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

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

cc: Hon. Jerome Polaha, District Judge  
Karla K. Butko  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk