

IN THE SUPREME COURT OF THE STATE OF NEVADA

MONTENEQUE NAKIA KNOX,
Appellant,
vs.
WARDEN, NEVADA STATE PRISON,
BILL DONAT; AND THE STATE OF
NEVADA,
Respondents.

No. 57435

FILED

JUL 14 2011

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant Monteneque Nakia Knox's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

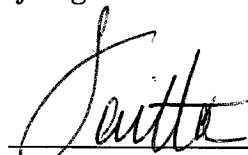
First, Knox contends that the district court abused its discretion by denying his habeas petition without conducting an evidentiary hearing. Knox claims that trial counsel was ineffective for failing to (1) investigate and assert that he was not competent for trial or sentencing, (2) present an insanity defense, and (3) present mitigating evidence regarding his incompetency at the sentencing hearing. We disagree.

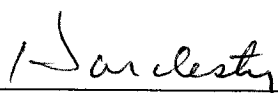
When reviewing the district court's resolution of an ineffective-assistance claim, we give deference to the court's factual findings if supported by substantial evidence and not clearly erroneous but review the court's application of the law to those facts de novo. Lader v. Warden, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005). Here, the district court found that Knox could not demonstrate that he was prejudiced by counsel's allegedly deficient performance. See Strickland v. Washington,

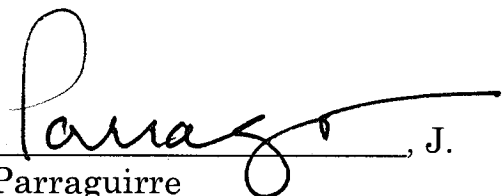
466 U.S. 668, 694 (1984). Further, our review of the record reveals that Knox was not entitled to an evidentiary hearing because his claims were either repelled by the record or not pleaded with the requisite factual specificity. See Mann v. State, 118 Nev. 351, 354, 46 P.3d 1228, 1230 (2002); Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). Therefore, we conclude that the district court did not err by rejecting Knox's ineffective-assistance claims.

Second, Knox contends that the district court abused its discretion by rejecting his claim that the trial court violated his right to due process by failing to order a competency evaluation sua sponte. In rejecting this claim, the district court found that Knox "failed to point to evidence before the trial court, which should have caused the court to experience a genuine doubt regarding [his] competence." See generally Morales v. State, 116 Nev. 19, 22, 992 P.2d 252, 254 (2000). Knox, however, waived this issue by failing to raise it on direct appeal and failing to demonstrate good cause for not raising the claim on direct appeal and actual prejudice. See NRS 34.810(1)(b)(2). Therefore, we conclude that the district court did not err by rejecting this claim, Wyatt v. State, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) ("If a judgment or order of a trial court reaches the right result, although it is based on an incorrect ground, the judgment or order will be affirmed on appeal."), and we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Steven P. Elliott, District Judge
Eric W. Lerude
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk