

IN THE SUPREME COURT OF THE STATE OF NEVADA

PIERRE BERGERE A/K/A PIERRE
CARL BERGERE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57460

FILED

SEP 14 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
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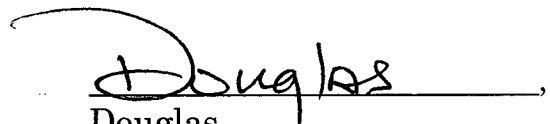
ORDER OF AFFIRMANCE

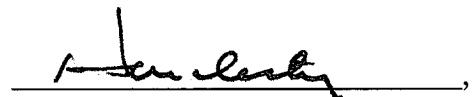
This is an appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Doug Smith, Judge.

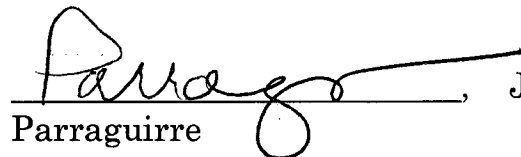
Appellant Pierre Bergere's sole contention is that the district court erred in denying his claim of ineffective assistance of trial counsel following an evidentiary hearing held on October 27, 2010. Bergere's appeal turns on the factual determination of whether Bergere requested that his attorney file an appeal on his behalf. See Lozada v. State, 110 Nev. 349, 354, 871 P.2d 944, 947 (1994) ("[A]n attorney has a duty to perfect an appeal when a convicted defendant expresses a desire to appeal or indicates dissatisfaction with a conviction."); cf. Thomas v. State, 115 Nev. 148, 150, 979 P.2d 222, 223 (1999) ("[T]here is no constitutional requirement that counsel must always inform a defendant who pleads guilty of the right to pursue a direct appeal."). We give deference to the district court's factual findings regarding ineffective assistance of counsel 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). After the evidentiary hearing, the district court determined that Bergere did not request that his attorney file an appeal on his behalf. As the district

court's finding is supported by substantial evidence and not clearly wrong, Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994), we conclude that trial counsel's performance was not deficient. See Strickland v. Washington, 466 U.S. 668, 687-88 (1984) (establishing two-part test for evaluating claims of ineffective assistance of counsel). Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, J.
Douglas


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Doug Smith, District Judge
Thomas A. Ericsson, Chtd.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk
Pierre Bergere

¹Because appellant is represented by counsel in this matter, we decline to grant appellant permission to file documents in proper person in this court. See NRAP 46(b). Accordingly, this court shall take no action on and shall not consider the proper person documents appellant has submitted to this court in this matter.