

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRYAN WAYNE CRAWLEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57532

FILED

JUL 26 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Anderson*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Bryan Crawley's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jennifer P. Togliatti, Judge.

Crawley argues that the district court erred in denying his claims of ineffective assistance of counsel. To prove ineffective assistance of counsel sufficient to invalidate a judgment of conviction based on a guilty plea, a petitioner must demonstrate that his counsel's performance was deficient in that it fell below an objective standard of reasonableness, and resulting prejudice such that there is a reasonable probability that, but for counsel's errors, petitioner would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996). Both components of the inquiry must be shown. Strickland v. Washington, 466 U.S. 668, 697 (1984). 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).

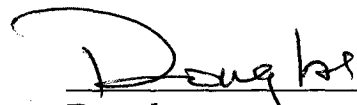
First, Crawley argues that his counsel was ineffective for allowing him to plead guilty to the charge in the indictment without the benefit of negotiations, which resulted in his receiving a life sentence under the large habitual criminal statute. Crawley failed to demonstrate that his counsel's performance was deficient or that he was prejudiced. Crawley did not allege any error by counsel that affected his decision to enter his guilty plea, and thus he failed to show that but for that error, he would not have pleaded guilty. The fact that he was unhappy with the sentence that he received—life in prison with the possibility of parole after ten years—did not render his counsel ineffective for advising him to enter a guilty plea. See Rouse v. State, 91 Nev. 677, 679, 541 P.2d 643, 644 (1975) (holding that defendant's hope of leniency or mere subjective belief as to potential sentence is insufficient to invalidate his decision to enter guilty plea). As to Crawley's assertion that counsel was aware that he had a capital murder trial pending at the time of the plea, he failed to explain how counsel was ineffective in this regard. Therefore, we conclude that the district court did not err in denying this claim.

Second, Crawley argues that counsel was ineffective for failing to provide legal authority at sentencing for his contention that the district court could not consider pending criminal charges in adjudicating him a habitual criminal. The underlying claim—that the district court considered pending charges during sentencing—was raised and rejected on direct appeal. Crawley v. State, Docket No. 49769 (Order of Affirmance, March 27, 2008). Because this court already concluded that the district court did not rely on the pending charges at sentencing, Crawley failed to demonstrate prejudice from any failure by his counsel to


provide legal citations. Therefore, the district court did not err in denying this claim.

Finally, Crawley argues that the district court erred in declining to hold an evidentiary hearing on his claims. However, because Crawley failed to provide any specific factual allegations that, if true and not repelled by the record, would entitle him to relief, no evidentiary hearing was required. See Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). Accordingly, we

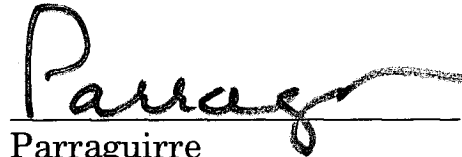
ORDER the judgment of the district court AFFIRMED.

 _____, J.

Douglas

 _____, J.

Gibbons

 _____, J.

Parraguirre

cc: Hon. Jennifer P. Togliatti, District Judge
Christopher R. Oram
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk