

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAUNTE LAMOUNT JONES,
Appellant,
vs.
GREG SMITH, WARDEN,
Respondent.

No. 57546

FILED

SEP 14 2011

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

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. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

Appellant Daunte Lamount Jones argues that the district court erred in denying his claim that trial counsel was ineffective at sentencing because she was completely unprepared and had only learned that she would be representing Jones that day. We conclude that representing a client at a sentencing hearing without the client's file or any knowledge of the background of his case fell below an objective standard of reasonableness and therefore was deficient representation. See Strickland v. Washington, 466 U.S. 668, 687-88 (1984) (establishing two-part test for evaluating claims of ineffective assistance of counsel); e.g., Dawson v. State, 108 Nev. 112, 115, 825 P.2d 593, 595 (1992).

However, we conclude that counsel's error did not result in prejudice. While Jones' substitute trial counsel failed to ask for probation with counseling components, we conclude that there was not a reasonable probability that the outcome of Jones' sentencing hearing would have been different. See id. As the district court said during the hearing on Jones' petition, "probation would be ludicrous in this case." The court went on to

say that this was "among the most serious cases of attempted kidnapping in the second degree that [it had] observed in 22 years."

Having considered Jones' argument and concluded that it lacks merit, we

ORDER the judgment of the district court AFFIRMED.

Douglas, J.
Douglas

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

cc: Hon. Brent T. Adams, District Judge
Matthew P. Digesti
Washoe County District Attorney
Washoe District Court Clerk