

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT JAMES HECKMAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58064

FILED

NOV 18 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Ingerson*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant Robert James Heckman's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Heckman contends that the district court abused its discretion by not finding that trial counsel was ineffective for failing to (1) present mitigation evidence at sentencing, (2) object to the admission of suspect evidence at sentencing, (3) object to the prosecutor's breach of the plea agreement, and (4) advise against accepting unfavorable plea terms and proceed to trial. Heckman also contends that counsel's ineffectiveness resulted in the entry of an invalid plea. And lastly, Heckman claims that appellate counsel was ineffective for failing to raise the issue of the prosecutor's alleged breach of the plea bargain. We disagree.

When reviewing the district court's resolution of an ineffective-assistance claim, we give deference to the court's factual findings if they are supported by substantial evidence and not clearly wrong 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 concluded that either trial counsel was not deficient or

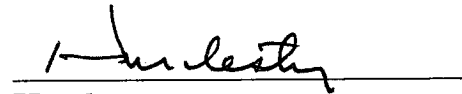
that Heckman failed to demonstrate prejudice. See Strickland v. Washington, 466 U.S. 668, 687-88, 694 (1984); Kirksey v. State, 112 Nev. 980, 987, 923 P.2d 1102, 1107 (1996). The district court also concluded that Heckman entered his guilty plea knowingly, voluntarily, and intelligently. See Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986). The district court finally concluded that appellate counsel was not ineffective because Heckman's claim did not have a reasonable probability of success on appeal. See Kirksey, 112 Nev. at 998, 923 P.2d at 1114. The district court's findings are supported by substantial evidence and are not clearly wrong, and Heckman has not demonstrated that the district court erred as a matter of law. Therefore, we conclude that the district court did not err by rejecting Heckman's ineffective-assistance claims.

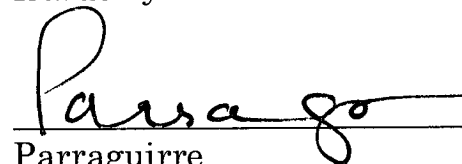
Heckman also contends that the district court abused its discretion by imposing an excessive sentence. This claim falls outside the scope of claims permissible in a post-conviction petition for a writ of habeas corpus challenging a judgment of conviction based upon a guilty plea. See NRS 34.810(1)(a). Moreover, we previously considered and rejected this claim on direct appeal, Heckman v. State, Docket No. 50907 (Order of Affirmance, December 23, 2008), and the doctrine of the law of the case precludes further litigation of the issue, Hall v. State, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975); see also Hsu v. County of Clark, 123 Nev. 625, 630, 173 P.3d 724, 728-29 (2007) (observing that this court may “depart from a prior holding if convinced that it is clearly erroneous and would work a manifest injustice” (quoting Arizona v. California, 460 U.S.

605, 618 n.8 (1983))). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 J.
Douglas

 J.
Hardesty

 J.
Parraguirre

cc: Hon. Connie J. Steinheimer, District Judge
Karla K. Butko
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk