

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT LEE STEPHENS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58214

FILED

SEP 15 2011

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Jackie Glass, Judge.

In his petition filed on January 7, 2011, appellant claimed that he received ineffective assistance of trial 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

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

1102, 1107 (1996). Both components of the inquiry must be shown. Strickland v. Washington, 466 U.S. 668, 697 (1984).

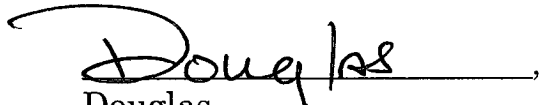
Appellant claimed that his trial counsel was ineffective for promising him a minimum sentence of 18 months on a conspiracy charge and a minimum sentence of 6 years and 8 months on a robbery with a deadly weapon charge. Appellant failed to demonstrate that his counsel's performance was deficient or that he was prejudiced. Appellant was accurately informed in the written guilty plea agreement and at the plea canvass of the potential penalties he faced by entry of his guilty plea. In exchange for his guilty plea, the State retained the right to argue at sentencing but did agree not to seek habitual criminal treatment. In signing his guilty plea agreement, appellant acknowledged he was not promised a particular sentence by anyone. Further, appellant acknowledged that the district court may sentence him within the limits prescribed by statute. Appellant's mere subjective belief regarding sentencing was insufficient to invalidate his decision to enter a guilty plea. Rouse v. State, 91 Nev. 677, 679, 541 P.2d 643, 644 (1975). Therefore, we conclude that the district court did not err in denying this claim.²

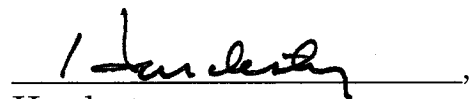
Next, it appears that appellant claimed that his trial counsel was ineffective for failing to file a notice of appeal on his behalf. Appellant failed to demonstrate any prejudice as appellant himself filed a notice of appeal from his judgment of conviction and litigated the direct appeal with

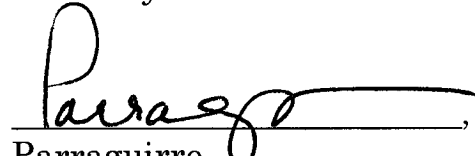
²To the extent that appellant claimed that his trial counsel failed to advise him that the court's failure to give him the sentence that he expected was a breach of the plea agreement, appellant failed to demonstrate that his counsel was ineffective for the reasons discussed above.

the assistance of counsel. Stephens v. State, Docket No. 56341 (Order of Affirmance, November 5, 2010). Therefore, we conclude that the district court did not err in denying this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 _____, J.
Douglas

 _____, J.
Hardesty

 _____, J.
Parraguirre

cc: Eighth Judicial District Court, Dept. 5
Robert Lee Stephens
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk