

IN THE SUPREME COURT OF THE STATE OF NEVADA

EVERETT HUNTER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59246

FILED

SEP 12 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *H. Lindeman*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant Everett Hunter's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

First, Hunter contends that the district court erred by summarily denying seven of the eight claims in his petition without (1) requiring the State to respond, and (2) allowing him "the opportunity to address any deficiencies," presumably, by conducting an evidentiary hearing. We disagree. The district court did not err by finding that the claims in question fell 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). Therefore, we conclude that the district court did not err by rejecting Hunter's claims without requiring the State to respond or conducting an evidentiary hearing. See NRS 34.745(1)(b); NRS 34.770(2).

Second, Hunter contends that the district court erred by not finding that counsel was ineffective for advising him to plead guilty without first conducting an adequate investigation or researching

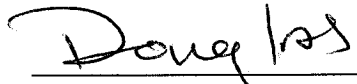
applicable law. We disagree. When reviewing the district court's resolution of an ineffective-assistance claim, we give deference to the court's factual findings if they are supported by substantial evidence and not clearly wrong but review the court's application of the law to those facts de novo. Lader v. Warden, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005). Here, the district court conducted an evidentiary hearing, heard testimony from Hunter's former counsel, and concluded that they were not deficient and he 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). We conclude that the district court's findings are supported by substantial evidence and not clearly wrong, and Hunter has not demonstrated that the district court erred as a matter of law.

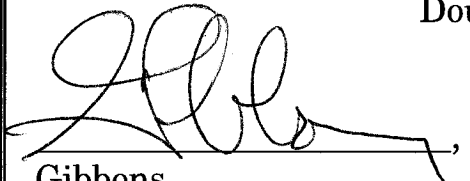
Third, Hunter contends that the district court erred by failing to rule on his motion to strike the lifetime supervision clause.¹ The State concedes that the district court failed to expressly rule on Hunter's motion, to the extent that it was a freestanding request for relief, but that a remand is unnecessary due to the deficiencies in Hunter's pleadings both below and on appeal. As a separate and independent claim for relief, Hunter's motion remains pending in the district court. We are confident

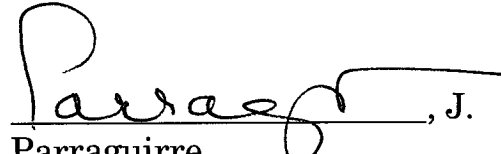
¹Counsel for Hunter supplemented his proper person petition by filing a document titled "Supplemental Petition for Writ of Habeas Corpus (Post-Conviction) & Motion to Strike Lifetime Supervision Clause."

that the district court will resolve Hunter's motion in an expeditious manner. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Janet J. Berry, District Judge
Marc Picker, Esq., Ltd.
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk