

IN THE SUPREME COURT OF THE STATE OF NEVADA

ADRIAN RODRIGUEZ,

No. 35438

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

**FILED**

APR 27 2000

JANETTE M. BLOOM  
CLERK OF THE SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.

We have reviewed the record on appeal and for the reasons stated in the attached order of the district court, we conclude that the district court properly denied appellant's petition. Accordingly, we

ORDER this appeal dismissed.

*Young*  
\_\_\_\_\_  
Young J.  
*Agosti*  
\_\_\_\_\_  
Agosti J.  
*Leavitt*  
\_\_\_\_\_  
Leavitt J.

cc: Hon. Connie J. Steinheimer, District Judge  
Attorney General  
Washoe County District Attorney  
Frederick R. Olmstead  
Washoe County Clerk

2 ORIGINAL

FILED

3 NOV 24 1999

4

By: *RLH*  
ADMIN. ASST

5  
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE

8  
9 ADRIAN RODRIGUEZ,

10 Plaintiff,

11 vs.

12 THE STATE OF NEVADA,

13 Defendant.

Case No. CR97P1771C

Dept. No. 4

14 ORDER DISMISSING PETITION FOR  
15 WRIT OF HABEAS CORPUS (POST-CONVICTION)

16 On October 8, 1999, an evidentiary hearing was held in the above-captioned case. Present in  
17 court were the Petitioner, Adrian Rodriguez, together with his counsel, Frederick R. Olmstead. The  
18 State was represented by David K. Neidert, Deputy Attorney General. The Washoe County District  
19 Attorney voluntarily recused himself because the Rodriguez's attorney at the time of entry of his guilty  
20 plea, Joseph R. Plater, is now a Deputy District Attorney for Washoe County, assigned to the unit  
21 which normally handles state post-conviction petitions.

22 The Court being fully advised, finds the following facts to be true and makes the following  
23 conclusions of law:

24 On October 21, 1997, Rodriguez, after consulting with Plater and agreeing that a plea bargain  
25 and guilty plea was in his best interest, signed a Waiver of Preliminary Examination in the Justice  
26 Court. At the time Rodriguez signed this document, it contained the following negotiations, which  
27 Rodriguez knew about at the time he waived his preliminary hearing: (1) that Rodriguez would plead  
28 guilty to Robbery with the Use of a Firearm; (2) the State would dismiss all other pending charges,  
29

1 With respect to the remaining grounds, this Court conducted an evidentiary hearing on  
2 October 8, 1999. Both Rodriguez and Plater testified at the hearing.

3 At the beginning of the hearing, it came to the Court's attention that Olmstead had applied for a  
4 position of employment with the Office of the Attorney General and that his application was still active.  
5 This Court personally canvassed Rodriguez about whether he wished to waive any potential conflict.  
6 Rodriguez knowingly and voluntarily waived any conflict of interest that Olmstead might have,  
7 expressed satisfaction with Olmstead as his attorney, and requested that Olmstead act as his attorney at  
8 the evidentiary hearing.

9 During the evidentiary hearing, the Court heard sworn testimony from both Rodriguez and  
10 Plater. The Court expressly finds that Plater's testimony is completely credible. To the extent that  
11 Rodriguez's testimony conflicts in any fashion with Plater's testimony, this Court expressly finds  
12 Rodriguez's testimony to be incredible and unworthy of belief.

13 Rodriguez knowingly and voluntarily entered his plea. Rodriguez signed the plea agreement  
14 after full consultation with Plater. Rodriguez understood that he faced potential sentences of  
15 2 to 15 years for the primary offense and a consecutive sentence of the same length for the weapons  
16 enhancement. Plater was not ineffective in his representation of Rodriguez. Plater investigated the  
17 facts of the case and determined that a plea was in Rodriguez's best interest. Plater fully advised  
18 Rodriguez of the consequences of his plea and of his right to appeal.

19 There is no evidence that Plater's handling of the case fell below any objective standard of  
20 reasonableness. Further, there is no evidence that even if Plater's performance can somehow be  
21 considered ineffective (a contention this Court rejects), that Rodriguez would not have pleaded guilty  
22 and instead would have insisted on going to trial.

23 Therefore, this Court finds that Rodriguez's petition for writ of habeas corpus (post-conviction)  
24 is without merit. The writ is denied and the petition is dismissed.

25 Olmstead shall remain counsel of record for appellate purposes.

26 IT IS SO ORDERED this 24 day of November, 1999.

27  
28 Connie S. Steinheimer  
DISTRICT JUDGE

IN THE SUPREME COURT OF THE STATE OF NEVADA

ADRIAN RODRIGUEZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 35438

District Court Case No. CR97P1771

REMITTITUR

**FILED**

JUN 07 2000

TO: Honorable Amy Harvey, Washoe County Clerk

Pursuant to the rules of this court, enclosed are the following:

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY Alvarado  
DEPUTY CLERK

Certified copy of Judgment and copy of Order.  
Receipt for Remittitur.

DATE: May 23, 2000

Janette Bloom, Clerk of Court

By: J. Richards  
Chief Deputy Clerk

cc: Hon. Connie J. Steinheimer, District Judge  
Attorney General  
Washoe County District Attorney  
Frederick R. Olmstead

**RECEIPT FOR REMITTITUR**

Received of Janette M. Bloom, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on May 24, 2000

Amy Harvey  
County Clerk

jw

RECEIVED  
MAY 26 2000  
JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
DEPUTY CLERK

00-08605

IN THE SUPREME COURT OF THE STATE OF NEVADA

ADRIAN RODRIGUEZ,  
Appellant,  
vs.  
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Respondent.

No. 35438

District Court Case No. CR97P1771

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Janette M. Bloom, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed as follows: "We ORDER this appeal dismissed."

Judgment, as quoted above, entered this 27th day of April, 2000.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court at my Office in Carson City, Nevada, this 23rd day of May, 2000.

Janette M. Bloom, Supreme Court Clerk

By:



Chief Deputy Clerk