

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHNNY LEE JONES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59672

FILED

DEC 12 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *R. Malone*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an amended judgment of conviction reinstating the sentence imposed in a prior judgment of conviction. First Judicial District Court, Carson City; James E. Wilson, Judge.

First, appellant Johnny Lee Jones contends that the district court deprived him of his right to choose his defense when it reinstated the original judgment of conviction before the time to enter a plea of not guilty by reason of insanity expired. See NRS 174.035(5). Jones does not support this claim with any cogent argument or citation to relevant authority. See Maresca v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987). Moreover, we note that more than four months elapsed between the time Jones was re-arraigned on the original charges and entry of the district court's order reinstating the original judgment of conviction. The record does not indicate, nor does Jones assert, that he ever expressed any desire to enter a plea of not guilty by reason of insanity during this time. Under these circumstances, we conclude that Jones fails to demonstrate error.

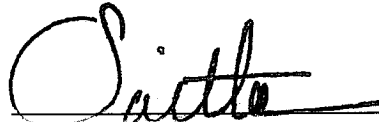
Second, Jones asserts that he was denied due process in connection with the State's motion to reinstate the original judgment of

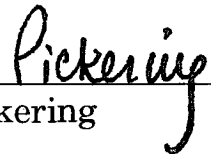
conviction because the district court abused its discretion by denying his motion for oral argument on the motion. We disagree. Jones claimed in his motion that oral argument was necessary because he believed that the prison law library was inadequate and he would not be able to properly respond to the State's motion. The district court denied Jones' motion because he failed to provide any facts in support of his claim that the prison law library was inadequate and had appointed stand-by counsel to assist with any research. We conclude that the denial of Jones' motion was not an abuse of discretion, see FJDCR 15(9) (grant or denial of a hearing regarding a motion is within district court's discretion), and this claim lacks merit.

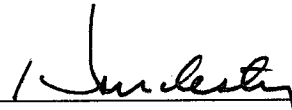
Third, and in response to the State's argument that the district court correctly reinstated the original judgment of conviction, Jones contends that the district court erred by granting the State's motion for reinstatement because this court's order remanded the case for a new trial. The State's motion asserted that the need for a new trial was obviated when, after this court's remand, Jones abandoned his not guilty by reason of insanity plea and instead entered a plea of not guilty. The district court granted the State's motion relying, in large part, on First Judicial District Court Rule 15(5) which states that the "failure of an opposing party to file a memorandum of points and authorities in opposition to any motion within the time permitted shall constitute a consent to the granting of the motion." Appellant does not challenge the district court's reliance on this rule or the State's underlying argument.

Therefore, we conclude that Jones has failed to demonstrate any error and we

ORDER the amended judgment of conviction AFFIRMED.


Saitta, J.


Pickering, J.


Hardesty, J.

cc: Hon. James E. Wilson, District Judge
Kay Ellen Armstrong
Attorney General/Carson City
Carson City District Attorney
Attorney General/Reno
Carson City Clerk