

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRENDON J. MCCORMICK,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 59675

**FILED**

SEP 13 2012

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *T. Malone*  
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.<sup>1</sup> Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

In his petition filed on August 16, 2011, appellant claimed that his trial counsel was ineffective for allowing him to enter a guilty plea that included a stipulation to habitual criminal status under NRS 207.010. Specifically, appellant asserted that he was not permitted to enter into a stipulation as a matter of law and that the district court was required to inquire into his prior felony convictions before adjudicating him a habitual offender. 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

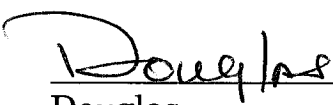
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<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

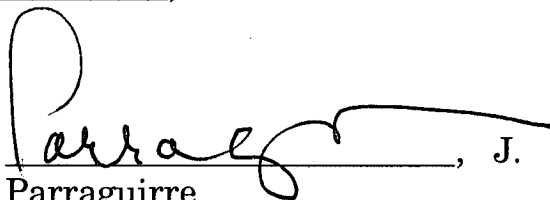
prejudice such that there is a reasonable probability that, but for counsel's errors, petitioner would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996). Both components of the inquiry must be shown. Strickland v. Washington, 466 U.S. 668, 697 (1984).

We conclude that the district court did not err in denying this claim because appellant failed to demonstrate that his counsel's performance was deficient or that he was prejudiced. Appellant's argument that he was not permitted to enter into a stipulation as a matter of law is incorrect, as NRS 207.016(6) permits a court to impose an adjudication of habitual criminality based on a stipulation. See Hodges v. State, 119 Nev. 479, 484, 78 P.3d 67, 70 (2003). Further, the information specified the prior felony convictions that the State was relying on in charging appellant as a habitual criminal, the State presented records of those five valid prior convictions to the district court at the sentencing hearing, and appellant did not dispute that the convictions were qualifying felonies for habitual criminal treatment. See id. at 484-85, 78 P.3d at 70. Because his underlying arguments are belied by the record, appellant failed to demonstrate that counsel was ineffective. Thus, we conclude that the district court did not err in denying the petition, and we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Stefany Miley, District Judge  
Brendon J. McCormick  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk