

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOY WINSTON A/K/A DEBRA L.
ANDERSON A/K/A GLENDA A. GLASS
A/K/A DELORES GREEN A/K/A
TRACEY A. LUCAS A/K/A TRACY
LUCAS A/K/A JO E. ROBINSON A/K/A
DIANE WRIGHT A/K/A DIANNE
WRIGHT A/K/A MARY D. WRIGHT,
Appellants,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59944

FILED

SEP 12 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. 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.¹ Eighth Judicial District Court, Clark County; Jerome T. Tao, Judge.

In her petition filed on August 29, 2011, appellant claimed that she received ineffective assistance of trial counsel. To prove ineffective assistance of counsel, a petitioner must demonstrate that 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, the outcome of the proceedings would have been different. Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Warden v. Lyons, 100 Nev. 430, 432-33, 683 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 Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

504, 505 (1984) (adopting the test in Strickland). In order to demonstrate prejudice sufficient to invalidate the decision to enter a guilty plea, a petitioner must demonstrate 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, 466 U.S. at 697.

First, appellant claimed that trial counsel failed in his duty of loyalty, duty to avoid a conflict of interest, duty to advocate for her cause, duty to consult with appellant on important decisions, duty to keep appellant informed of important developments, and duty to use skills in representing her. Appellant failed to provide any facts in support of these claims, and thus, she failed to demonstrate that her counsel's performance was deficient and that she was prejudiced. Therefore, the district court did not err in denying these claims.

Second, appellant claimed that trial counsel failed to bring forth evidence that indicated that she did not have the proper intent when she entered the Stratosphere. Appellant failed to demonstrate that her counsel's performance was deficient or that she was prejudiced. Trial counsel did object to the bind over on the burglary charge and filed a pretrial petition for a writ of habeas corpus litigating this issue. Appellant's guilty plea alleviated trial counsel of further efforts on her behalf in regards to the presentation of evidence. Further, appellant received a substantial benefit by entry of her guilty plea as she avoided additional felony charges and the dismissal of two additional cases in exchange for her plea to one count of burglary and large habitual criminal

treatment with a stipulated sentence of 10 to 25 years. Therefore, we conclude that the district court did not err in denying this claim.

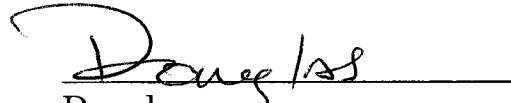
Third, appellant claimed that trial counsel failed to bring forth evidence to substantiate her mental illness. Appellant failed to demonstrate that her trial counsel's performance was deficient or that she was prejudiced. Appellant was evaluated for competency and determined to be competent. Trial counsel further presented a memorandum to the court for consideration at sentencing pursuant to NRS 176.057. Appellant failed to demonstrate that there was further evidence relating to her mental health that should have been presented that would have had a reasonable probability of altering the outcome at trial. Therefore, we conclude that the district court did not err in denying this claim.


Fourth, appellant claimed that trial counsel failed to explain the consequences of the guilty plea. Appellant failed to demonstrate that her counsel's performance was deficient or that she was prejudiced. The written guilty plea agreement informed her of the consequences of her guilty plea. Appellant was personally canvassed about the consequences of her guilty plea. Therefore, we conclude that the district court did not err in denying this claim.

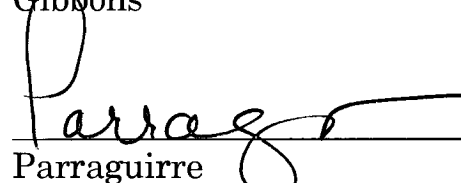
Finally, appellant raised a number of unintelligible claims relating to an alleged breach of the plea agreement and failure to provide evidence pursuant to Brady v. Maryland, 373 U.S. 83 (1963). These claims fell outside the scope of claims permissible in a post-conviction petition for a writ of habeas corpus challenging a judgment of conviction based upon a guilty plea. NRS 34.810(1)(a). Further, appellant failed to provide any facts supporting these claims. Hargrove v. State, 100 Nev. 498, 686 P.2d

222 (1984). Therefore, we conclude that the district court did not err in denying these claims. Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Jerome T. Tao, District Judge
Joy Winston
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.