

IN THE SUPREME COURT OF THE STATE OF NEVADA

TREVOR JOHN CARTER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59988

FILED

NOV 14 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY Angela
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; Douglas W. Herndon, Judge.

In his petition filed on September 22, 2011, appellant claimed that he received ineffective assistance of counsel. 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 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).

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).

Appellant claimed that counsel was ineffective for allowing him to plead to child abuse charges stemming from the same incident for which he was convicted of second-degree murder by child abuse. He claimed that he was being punished multiple times for the same incident. Appellant failed to demonstrate that counsel was deficient. In signing the plea agreement, appellant agreed to waive any defects as to count two.² Further, the district court specifically canvassed appellant regarding waiving the defects in count two and appellant acknowledged that he was pleading to a fictitious charge. Moreover, appellant received a benefit by pleading guilty as he avoided a first-degree murder conviction and several other counts of child abuse. Therefore, the district court did not err in denying this claim.

Appellant's other claims were outside the scope of a post-conviction petition for a writ of habeas corpus challenging the judgment of conviction based upon a guilty plea. NRS 34.810(1)(a). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Douglas, J.
Douglas

Gibbons, J.
Gibbons

Parraguirre, J.
Parraguirre

²Counts three and four charging child abuse did not involve the child charged in the second-degree murder count or count two. Count two charged that appellant committed child abuse causing substantial bodily injury.

cc: Hon. Douglas W. Herndon, District Judge
Trevor John Carter
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk