

IN THE SUPREME COURT OF THE STATE OF NEVADA

JEREMY STROHMEYER,

No. 35751

Appellant,

vs.

FILED

THE STATE OF NEVADA,

FEB 07 2001

Respondent.

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant's post-conviction petition for a writ of habeas corpus and post-conviction motion to withdraw a guilty plea. On appeal, Jeremy Strohmeier contends that the district court erred in concluding that that his guilty plea was voluntary and that his trial counsel's representation did not fall below the objective standard of reasonableness. We disagree.

First, Strohmeier contends that the district court abused its discretion in determining that Strohmeier's plea was voluntary because the district court's findings that Strohmeier was fully and accurately informed of his sentencing and appellate rights are not supported by the record. Our review of the record, however, reveals that there is substantial evidence to support the district court's findings. Specifically, the testimony of Leslie Abramson and Richard Wright, together with Wright's handwritten notes, show that Strohmeier was fully and accurately informed: (1) that the district court could have run his sentences concurrently if he decided to risk trial and was convicted; and (2) that he still had some appellate rights with respect to the admission of his

hospital confession and evidence from his home computer.¹

Next, Strohmeyer contends that his counsel were ineffective by making significant misleading statements resulting in a denial of his due process rights.² As we concluded above, however, the district court finding that Strohmeyer's counsel gave him accurate and complete advice regarding his sentencing possibilities and appellate rights is supported by substantial evidence. Further, we conclude that Strohmeyer's counsel were effective and competent in all other respects. Accordingly, we hold that Strohmeyer has not shown that his counsel's performance fell below an objective standard of reasonableness.³

Having considered Strohmeyer's arguments on appeal, we conclude that they lack merit and that the district court did not err in determining that Strohmeyer's plea was voluntary and that his counsels' performance did not fall

¹See *Bryant v. State*, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986) (holding that this court will not overturn a district court's determination of whether a plea was knowingly and voluntarily entered absent an abuse of discretion); *Riley v. State*, 110 Nev. 638, 878 P.2d 272 (1994) (concluding that a district court's findings in a post-conviction proceeding are not clearly erroneous if they are supported by substantial evidence); *Brust v. State*, 108 Nev. 872, 874-75, 839 P.2d 1300, 1301 (1992) (noting that substantial evidence is evidence which a reasonable mind might accept as adequate to support a conclusion).

²See *Cooks v. United States*, 461 F.2d 530, 532 (5th Cir. 1972) ("[S]ignificant misleading statements of counsel [which induce a defendant to plead] can rise to a level of denial of due process of law and result in a vitiation of the judicial proceeding because of ineffective assistance of counsel.")

³See *Riley v. State*, 110 Nev. at 647, 878 P.2d at 272-78 (noting that on appeal, this court will generally defer to the district court's findings of fact regarding ineffective assistance of counsel, but because these types of claims present a mixed question of law and fact, they are still subject to this court's independent review); *Reeves v. State*, 113 Nev. 959, 960, 944 P.2d 795, 796 (1997) (holding that to state a claim of ineffective assistance of counsel, petitioner must demonstrate (1) that his counsel's performance fell below an objective standard of reasonableness; and (2) that, but for counsel's errors, petitioner would not have pleaded guilty).

below the objective standard of reasonableness. Accordingly,
we

ORDER the judgment of the district court denying
Strohmeier's petition for writ of habeas corpus and post-
conviction motion to withdraw his guilty plea AFFIRMED.

Young J.
Young

Rose J.
Rose

Becker J.
Becker

cc: Hon. Joseph T. Bonaventure, District Judge
Attorney General
Clark County District Attorney
Abate & Pruess
Carmin J. Colucci & Associates
Clark County Clerk