

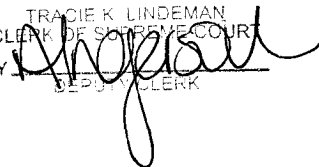
IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTINA NATION A/K/A
CHRISTINA MONIQUE NATION,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 62923

FILED

JAN 16 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
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; Kathleen E. Delaney, Judge.

In her November 13, 2012, petition, appellant claimed she 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 her 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).

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).



Both components of the inquiry must be shown. *Strickland v. Washington*, 466 U.S. 668, 697 (1984).

First, appellant claimed that her initial counsel failed to seek dismissal of the charges on the grounds that appellant was mistakenly identified as the person depicted on the surveillance video and there were no eyewitnesses for a number of her charges. Appellant failed to demonstrate that her counsel's performance was deficient or that she was prejudiced. Appellant failed to demonstrate that objectively reasonable counsel would have sought dismissal of the charges on these bases as she did not demonstrate such an action would not have been futile. *See Ennis v. State*, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Moreover, by entry of appellant's guilty plea, she waived the opportunity to challenge the strength of the State's evidence against her at trial. In addition, appellant received a substantial benefit by entry of her plea, as the State dismissed multiple charges and agreed not to seek adjudication as a large habitual criminal. Accordingly, appellant failed to demonstrate she would not have pleaded guilty and would have insisted on going to trial had counsel sought dismissal of the charges on these bases. Therefore, the district court did not err in denying this claim.

Second, appellant claimed that her initial counsel coerced her plea by telling her that she faced adjudication under the large habitual criminal statute. Appellant failed to demonstrate that her counsel's performance was deficient or that she was prejudiced. Appellant acknowledged in the guilty plea agreement and at the plea canvass that she entered her guilty plea voluntarily and did not act under duress or coercion. Moreover, counsel's advice was accurate as appellant did face adjudication as a large habitual criminal. *See NRS 207.010*. Appellant

failed to demonstrate that she would not have pleaded guilty and would have insisted on going to trial had counsel offered different advice. Therefore, the district court did not err in denying this claim.

Third, appellant claimed that her counsel at sentencing sexually harassed her and told her that he would have fought harder had she consented to have sex with him. Appellant failed to demonstrate that she was prejudiced. The guilty plea agreement was negotiated by appellant's initial counsel and appellant stipulated to a sentence of 5 to 13 years in that agreement. The district court sentenced appellant to serve a prison term of 5 to 13 years. As appellant received the sentence she stipulated to while represented by her initial counsel, she failed to demonstrate prejudice related to a claim she was sexually harassed by her counsel at sentencing. Therefore, the district court did not err in denying this claim.²

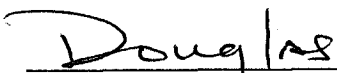
Fourth, appellant claimed that her counsel at sentencing failed to file all of the motions she wanted him to file, failed to contact her, and failed to sufficiently investigate her case. Appellant failed to demonstrate that she was prejudiced. As stated previously, appellant received the sentence she stipulated to while she was represented by her initial counsel. Therefore, she failed to demonstrate that she was prejudiced by any failure of the second counsel with respect to these issues. Therefore, the district court did not err in denying this claim.

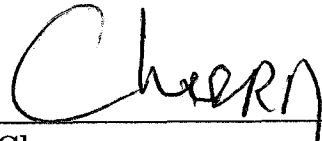
²Appellant also claimed that her counsel at sentencing refused to file her income tax returns and failed to initiate a civil action in retaliation for her refusal to engage in sexual activities with him. These issues are beyond the scope of a post-conviction petition for a writ of habeas corpus. See NRS 34.720; NRS 34.724(1).

Finally, appellant claimed there was insufficient evidence that she committed burglary. This claim was not based on an allegation that appellant's plea was involuntarily or unknowingly entered or that her plea was entered without effective assistance of counsel, and therefore, was not permissible in a post-conviction petition for a writ of habeas corpus stemming from a guilty plea. *See* NRS 34.810(1)(a). Therefore, the district court did not err in denying this claim.

Having concluded that appellant is not entitled to relief, we
ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Kathleen E. Delaney, District Judge
Christina Nation
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk