

IN THE SUPREME COURT OF THE STATE OF NEVADA

GLEN SCRUGGS A/K/A GLENN
MARIO SCRUGGS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63450

FILED

FEB 12 2014

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.¹ Eighth Judicial District Court, Clark County; Valorie J. Vega, Judge.

In his October 1, 2009, petition, appellant claimed that his counsel was ineffective. 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 504, 505 (1984) (adopting the test in *Strickland*). To demonstrate prejudice regarding the decision to enter a

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 *Luckett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).


guilty plea, a petitioner must demonstrate 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.

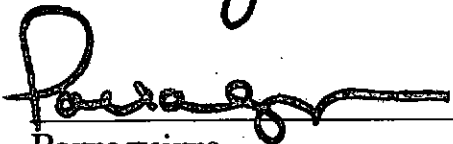
First, appellant claimed that his counsel was ineffective for failing to explain the consequences of his guilty plea, as appellant claimed that he agreed to adjudication as a small habitual criminal and that he did not understand that he faced adjudication under the large habitual criminal statute if he violated the terms of his house arrest. Appellant failed to demonstrate that his counsel's performance was deficient or that he was prejudiced. Appellant raised the underlying claim on direct appeal and this court concluded that the totality of the circumstances demonstrated that appellant's plea was knowingly and voluntarily entered as he was aware that he could be sentenced under the large habitual criminal statute and that the district court had the discretion to determine the sentence imposed. *Scruggs v. State*, Docket No. 58097 (Order of Affirmance, April 11, 2012). Appellant failed to demonstrate a reasonable probability that he would not have pleaded guilty and would have insisted on going to trial had counsel explained the guilty plea agreement in greater detail. Therefore, the district court did not err in denying this claim.


Second, appellant claimed that his counsel was ineffective for failing to file a notice of appeal and appellant asserted he did not receive a direct appeal. Appellant failed to demonstrate that his counsel's performance was deficient or that he was prejudiced. Counsel filed a

notice of appeal and on appeal this court affirmed appellant's judgment of conviction and sentence. *Scruggs v. State*, Docket No. 58097 (Order of Affirmance, April 11, 2012). 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.²

 _____, J.
Pickering

 _____, J.
Parraguirre

 _____, J.
Saitta

cc: Hon. Valorie J. Vega, District Judge
Glen Scruggs
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.