

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRIAN YOUNG,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63497

FILED

FEB 12 2014

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 appellant's post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

In his petition, filed on March 26, 2013, appellant raised two claims of ineffective assistance of appellate counsel. To prove ineffective assistance of appellate 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 the omitted issue would have a reasonable probability of success on appeal. *Kirksey v.*

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).

State, 112 Nev. 980, 998, 923 P.2d 1102, 1114 (1996). Both components of the inquiry must be shown. *Strickland v. Washington*, 466 U.S. 668, 697 (1984). Appellate counsel is not required to raise every non-frivolous issue on appeal. *Jones v. Barnes*, 463 U.S. 745, 751 (1983). Rather, appellate counsel will be most effective when every conceivable issue is not raised on appeal. *Ford v. State*, 105 Nev. 850, 853, 784 P.2d 951, 953 (1989).


First, appellant claimed that appellate counsel failed to argue that his presentence motion to withdraw guilty plea was improperly denied. Appellant's claim is belied by the record as counsel raised this issue on appeal. *Young v. State*, Docket No. 57912 (Order of Affirmance, October 8, 2012). Therefore, the district court did not err in denying this claim.


Second, appellant claimed that appellate counsel failed to argue that his guilty plea was not knowingly and voluntarily entered because trial counsel lied when he told appellant that a codefendant would testify at his trial. Appellant failed to demonstrate that his appellate counsel's performance was unreasonable or that this claim had a reasonable probability of success on appeal. The codefendant's guilty plea agreement provided for a more lenient recommendation at sentencing in the event the codefendant testified at appellant's trial. It is not improper for counsel to inform the client of the potential evidence against him; indeed, it is the role of counsel to provide the client with full and frank advice concerning the potential consequences of both a trial and a plea


bargain. Therefore, we conclude that the district court did not err in denying this claim.

Having considered appellant's contentions and concluded that they lack merit, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Pickering


_____, J.
Parraguirre


_____, J.
Saitta

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Brian Young
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk