

IN THE SUPREME COURT OF THE STATE OF NEVADA

SEAN RICO MUSE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 64759

FILED

JUN 11 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 a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

In his petition filed on September 26, 2013, 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). We give deference to

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).

the court's factual findings if supported by substantial evidence and not clearly erroneous but review the court's application of the law to those facts de novo. *Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005).

First, appellant claimed that counsel was ineffective for failing to call or locate his alibi witness. Appellant failed to support this claim with specific facts that, if true, entitled him to relief. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). Therefore, the district court did not err in denying this claim.

Next, he claimed that counsel was ineffective for coercing him to plead guilty. He claimed that he only had a ninth-grade education; and he always told counsel he was innocent and did not want to take a deal. Further, he claimed that counsel threatened to withdraw from his case if he did not take the deal. Appellant failed to demonstrate that he was coerced. Appellant was thoroughly canvassed regarding his plea. He indicated he read and understood the plea agreement and its terms, and he indicated to the district court that he could read and write. He also informed the district court he was not coerced into pleading guilty and that no one made him any promises regarding his plea. Moreover, appellant received a significant benefit by pleading guilty. He was originally facing seventeen counts. By pleading guilty, he was only convicted of three and the State agreed to recommend concurrent time between the counts, which he received. Further, the State agreed to dismiss the charges in case number 12F01310X. Therefore, appellant failed to demonstrate that he would not have pleaded guilty and would have insisted on going to trial. Accordingly, the district court did not err in denying this claim.

cc: Hon. Stefany Miley, District Judge
Sean Rico Muse
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk