

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

AMBER J. HALL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 66208

**FILED**

JAN 21 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.<sup>1</sup> Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

In her March 20, 2014, post-conviction petition for a writ of habeas corpus, appellant claimed that her counsel was ineffective. 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,

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<sup>1</sup>This 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).

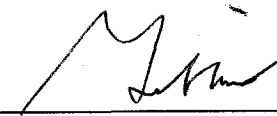
923 P.2d 1102, 1107 (1996). Both components of the inquiry must be shown. *Strickland v. Washington*, 466 U.S. 668, 697 (1984).


First, appellant claimed that her counsel was ineffective for failing to inform the district court in writing regarding appellant's mental disabilities. Appellant failed to demonstrate either deficiency or prejudice for this claim. Counsel filed a lengthy sentencing memorandum detailing appellant's mental difficulties and difficult childhood. Appellant failed to demonstrate a reasonable probability of a different outcome had her counsel made further efforts to inform the trial court regarding appellant's mental difficulties. Therefore, the district court did not err in denying this claim.


Second, appellant claimed that her counsel was ineffective for permitting appellant to be prosecuted despite her mental retardation. Appellant appeared to assert that counsel should have attempted a defense of diminished capacity. Appellant failed to demonstrate that her counsel's performance was deficient or that she was prejudiced. Nevada does not recognize diminished capacity as a legal defense. *See Crawford v. State*, 121 Nev. 744, 757, 121 P.3d 582, 590-91 (2005). To the extent that appellant asserted she was incompetent, appellant failed to demonstrate that she did not have the ability to consult with her attorney with a reasonable degree of rational understanding and that she did not have a rational and factual understanding of the proceedings against her. *See Melchor-Gloria v. State*, 99 Nev. 174, 179-80, 660 P.2d 109, 113 (1983) (citing *Dusky v. United States*, 362 U.S. 402 (1960)). To the extent appellant claimed that her counsel should have argued she was legally insane, appellant did not demonstrate that she was in a delusional state during the crime such that she could not know or understand the nature

and capacity of her acts or could not appreciate the wrongfulness of her acts. See *Finger v. State*, 117 Nev. 548, 576, 27 P.3d 66, 84-85 (2001). Therefore, the district court did not err in denying this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

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