

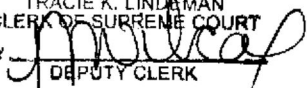
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ADAM WYNN TINGLEY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 67075

**FILED**

MAR 17 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY  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> Second Judicial District Court, Washoe County; Jerome Polaha, Judge.

In his petition filed on July 16, 2014, appellant claimed that 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 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

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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).

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 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).


Appellant claimed that counsel was ineffective because she should have known that the Nevada Department of Corrections' Administrative Regulation 708 violated his right to due process. Therefore, counsel should not have let appellant plead guilty or she should have filed a motion to dismiss. Appellant failed to support this claim with specific facts that, if true, would entitle him to relief. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d, 222, 225 (1984). Specifically, he failed to allege how that regulation violated his due process rights. Therefore, the district court did not err in denying this claim.


Next, appellant claimed that the State improperly charged him because his appeal from his prison disciplinary proceedings was still pending. This claim is outside the scope of claims permissible to be raised in a post-conviction petition for a writ of habeas corpus challenging a

judgment of conviction based upon a guilty plea. See NRS 34.810(1)(a).

Therefore, the district court did not err in denying this claim, and we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

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

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

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

cc: Hon. Jerome Polaha, District Judge  
Adam Wynn Tingley  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk

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<sup>2</sup>We have reviewed all documents that appellant has submitted 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.