

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

HIGINIO CAUSSE BARRERA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 67429

FILED

JUL 14 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Williams*
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.¹ Eighth Judicial District Court, Clark County; Jennifer P. Togliatti, Judge.

In his petition filed on November 13, 2014, appellant Higinio Barrera claimed he received ineffective assistance of trial and appellate counsel. The district court denied these claims, concluding Barrera's claims were bare and naked and lacked specific facts that, if true, would entitle him to relief. Barrera's 25 claims of ineffective assistance of trial and appellate counsel consisted of conclusory statements with no specific facts alleged. Therefore, the district court did not err in denying these

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude 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).

claims. *See Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005); *Hargrove v. State*, 100 Nev. 498, 502-503, 686 P.2d 222, 225 (1984).


Barrera also appeared to claim there was a conflict between him and appellate counsel because appellate counsel worked for the same office as his trial counsel. Barrera failed to demonstrate there was an actual conflict of interest. *See Cuyler v. Sullivan*, 446 U.S. 335, 348 (1980). He failed to demonstrate his counsel was placed in a situation conducive to divided loyalties, *Clark v. State*, 108 Nev. 324, 326, 831 P.2d 1374, 1376 (1992), or his counsel actively represented conflicting interests, *Burger v. Kemp*, 483 U.S. 776, 783 (1987). Therefore, the district court did not err in denying this claim.

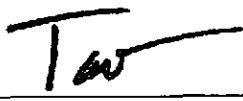
Finally, Barrera raised 19 claims of prosecutorial misconduct and district court error. These claims were waived because they could have been raised on direct appeal, *see* NRS 34.810(1)(b)(2), and Barrera fails to demonstrate good cause or prejudice to overcome the procedural bar, *see* NRS 34.810(1)(b); NRS 34.810(3). To the extent Barrera claimed there was insufficient evidence to convict him, this claim was raised on direct appeal from his judgment of conviction and was rejected by the Nevada Supreme Court. *See Barrera v. State*, Docket No. 63287 (Order of Affirmance, December 16, 2013). Therefore, this claim was barred by the doctrine of law of the case. *Hall v. State*, 91 Nev. 314, 316, 535 P.2d 797,

799 (1975). Accordingly, the district court did not err in denying these claims.

Having reviewed Barrera's claims and concluded he is not entitled to relief, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Jennifer P. Togliatti, District Judge
Higinio Causse Barrera
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk