

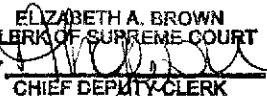
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOSE ANTONIO LOPEZ-RUIZ, A/K/A
JOSE A. LOPEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70455

FILED

MAR 22 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Appellant Jose Antonio Lopez-Ruiz appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus, a petition for a writ of extraordinary relief, and a motion to appoint counsel.¹ Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

In his February 22, 2016, postconviction petition for a writ of habeas corpus, Lopez-Ruiz claimed his 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, but for counsel's errors, petitioner would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*,

¹This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

474 U.S. 52, 58-59 (1985); *Kirksey v. State*, 112 Nev. 980, 987-88, 923 P.2d 1102, 1107 (1996). Both components of the inquiry must be shown. *Strickland v. Washington*, 466 U.S. 668, 697 (1984).


Lopez-Ruiz claimed his counsel was ineffective for failing to argue the district court lacked subject matter jurisdiction to convict him because the Nevada Revised Statutes were invalid as they failed to contain enacting clauses, justices of the Nevada Supreme Court improperly participated in their creation, and the bill authorizing creation of the Nevada Revised Statutes was not properly introduced, considered, or passed by the legislature and governor. Lopez-Ruiz failed to demonstrate his counsel's performance was deficient or resulting prejudice.

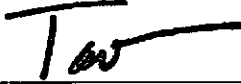
Lopez-Ruiz' claim did not implicate the subject matter jurisdiction of the district court and therefore he failed to demonstrate objectively reasonable counsel would have raised this issue. See Nev. Const. art. 6, § 6; NRS 171.010; *United States v. Cotton*, 535 U.S. 625, 630 (2002) (“[T]he term jurisdiction means . . . the court’s statutory or constitutional power to adjudicate the case.” (internal quotation marks omitted)). We note the Statutes of Nevada contain the laws with the enacting clauses required by the constitution. The Nevada Revised Statutes simply reproduce those laws as classified, codified, and annotated by the Legislative Counsel. See NRS 220.120. We further conclude Lopez-Ruiz failed to demonstrate justices of the Nevada Supreme Court improperly participated in the creation of the Nevada Revised Statutes or the bill authorizing the Nevada Revised Statutes was not properly passed. Accordingly, Lopez-Ruiz failed to demonstrate a reasonable probability he would have refused to plead guilty and would have insisted on proceeding

to trial had counsel raised this issue. Therefore, we conclude the district court did not err in denying the petition.²

In his petition for a writ of extraordinary relief filed on February 22, 2016, Lopez-Ruiz challenged his judgment of conviction, and requested the district court to expunge his conviction and order his immediate release from prison. We conclude the district court correctly denied the petition because Lopez-Ruiz improperly challenged the validity of a judgment of conviction through a petition for a writ of extraordinary relief. *See* NRS 34.160; NRS 34.320; NRS 34.724(2) (stating a postconviction petition for a writ of habeas corpus is the proper vehicle with which to challenge a judgment of conviction). Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

²Lopez-Ruiz also asserted his guilty plea was coerced because he was forced to plead guilty despite the invalidity of the Nevada Revised Statutes. Because we conclude Lopez-Ruiz failed to demonstrate the Nevada Revised Statutes are invalid, he failed to demonstrate withdrawal of his guilty plea was necessary to correct a manifest injustice. *See* NRS 176.165.

³We also conclude the district court did not abuse its discretion in declining to appoint postconviction counsel given the lack of complexity for this matter. *See* NRS 34.750(1).

cc: Hon. Susan Johnson, District Judge
Jose Antonio Lopez-Ruiz
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk