

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DEMETRIUS EDWARD JOSEPH,  
Appellant,  
vs.  
BRIAN WILLIAMS, IN HIS OFFICIAL  
CAPACITY AS THE WARDEN OF  
SOUTHERN DESERT CORRECTIONAL  
CENTER; GREG COX, IN HIS  
OFFICIAL CAPACITY AS DIRECTOR  
OF THE NEVADA DEPARTMENT OF  
CORRECTIONS; JAMES DURENDA, IN  
HIS OFFICIAL CAPACITY AS  
DIRECTOR OF THE NEVADA  
DEPARTMENT OF CORRECTIONS  
(REPLACING GREG COX AS OF THE  
DATE THAT THIS SUPPLEMENT IS  
FILED); AND THE STATE OF  
NEVADA,  
Respondents.

No. 70840

**FILED**

AUG 16 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Vaungh  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Demetrius Edward Joseph appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus he filed on November 12, 2015, and supplemental petitions. Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

Joseph contends the district court erred by denying his claim trial counsel was ineffective for failing to challenge the validity of the Nevada Revised Statutes. To demonstrate ineffective assistance of counsel, a petitioner must show counsel's performance was deficient in that it fell below an objective standard of reasonableness and prejudice resulted in that there was a reasonable probability of a different outcome absent counsel's errors. *Strickland v. Washington*, 466 U.S. 668, 687-88

(1984); *Warden v. Lyons*, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984) (adopting the test in *Strickland*). Both components of the inquiry must be shown. *Strickland*, 466 U.S. at 697.

Joseph argues the Nevada Revised Statutes are null and void because they lack enacting clauses, their creation was the product of an unconstitutional process that violated the separation-of-powers doctrine, and counsel was ineffective for not raising these claims below. Joseph's arguments lack merit.<sup>1</sup> 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. NRS 220.110; NRS 220.120. Joseph fails to identify which legislative function was encroached on by the inclusion of supreme court justices on the Statute Revision Commission, see *Comm'n on Ethics v. Hardy*, 125 Nev. 285, 291-92, 212 P.3d 1098, 1103 (2009) (discussing Nevada's separation of powers provision), and fails to allege the act creating the Nevada Revised Statutes was not enacted by the Legislature in accord with Article 4 of the Nevada Constitution. Cf. *Hargrove v. State*, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984) (petitioner not entitled to an evidentiary hearing on bare claims).

Joseph fails to demonstrate the justices' role on any committee involving creation of the Nevada Revised Statutes was improper. Because any challenge to the validity of the Nevada Revised Statutes would have been futile, counsel was not ineffective in failing to raise such a claim. See


---

<sup>1</sup>Joseph also raised the invalidity of the Nevada Revised Statutes as an independent ground for relief. However, such a claim is outside the scope permissible in a postconviction petition for a writ of habeas corpus arising out of a guilty plea. See NRS 34.810(1)(a).

*Ennis v. State*, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006).  
Accordingly, we conclude the district court did not err in denying Joseph's  
petition, and we

ORDER the judgment of the district court AFFIRMED.

, C.J.  
Silver

, J.  
Tao

, J.  
Gibbons

cc: Hon. Douglas Smith, District Judge  
Law Office of John G. George  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk