

IN THE SUPREME COURT OF THE STATE OF NEVADA

PAUL STEPHEN HARLOW,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68300

FILED

JUN 17 2016

MARGIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a pro se appeal from a district court order denying appellant Paul Stephen Harlow's postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

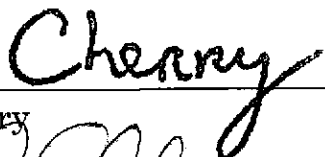
Harlow pleaded guilty to two counts of attempted sexual assault. In his petition, Harlow sought to withdraw his plea on the basis that counsel incorrectly advised him that he was eligible for probation, which caused him to enter an unknowing plea. See *Hill v. Lockhart*, 474 U.S. 52, 58-59 (1985) (observing that, 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 errors, petitioner would not have pleaded guilty and would have insisted on going to trial); *Kirksey v. State*, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996). The district court denied the petition because Harlow was eligible for probation and therefore he failed to demonstrate that counsel was ineffective. We agree. See NRS 176A.100(1)(a) (listing crimes


16-19053

for which probation is not permissible); NRS 176A.110(1) (explaining that the court shall not grant probation to a person convicted of attempted sexual assault unless he does not represent a high risk to reoffend as certified in a psychosexual evaluation report). To the extent Harlow contended he was not adequately informed regarding the import of NRS 176A.110, or that he was promised he would receive probation, his contentions are belied by the record and did not warrant relief.¹ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Cherry


_____, J.
Gibbons

cc: Hon. Eric Johnson, District Judge
Paul Stephen Harlow
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹We also conclude that the district court did not abuse its discretion by declining to appoint counsel. See NRS 34.750(1).