

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE CRISTOBAL SANTIBANEZ-GARCIA,

No. 37364

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

MAY 18 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant's post-conviction petition for a writ of habeas corpus. Appellant pleaded guilty to one count of trafficking in a controlled substance, and the district court sentenced him to a prison term of 10 to 25 years.

Appellant contends that the district court erred in finding that appellant's counsel was not ineffective. Particularly, appellant contends that his trial counsel was ineffective because he failed to investigate the circumstances of appellant's case, including information about the confidential informant and appellant's codefendant. We conclude that appellant has not demonstrated that the conduct of his counsel fell below an objective standard of reasonableness.¹

¹See *Reeves v. State*, 113 Nev. 959, 960, 944 P.2d 795, 796 (1997) (holding that, in order to invalidate a judgment arising from a guilty plea, appellant must demonstrate that (1) his counsel's performance fell below an objective standard of reasonableness; and (2) there was a reasonable probability that, but for counsel's error, appellant would not have pleaded guilty and would have insisted on going to trial).

Appellant also contends that the district court erred in finding that appellant's guilty plea was knowing and voluntary. Particularly, appellant contends that his plea was not knowing because he believed when he pleaded guilty that the only consequence of a guilty plea was deportation. Appellant's contention lacks merit. The totality of the circumstances, including the record of the plea canvas, the written plea memorandum, and the testimony at the evidentiary hearing of both trial counsel and the interpreter, demonstrate that appellant was informed that the minimum sentence he would receive was twenty-five years with parole eligibility after ten years.²

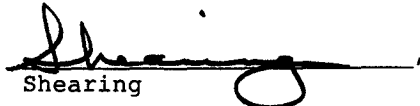
Finally, appellant contends that his due process rights were violated because his court-appointed interpreter was not adequately qualified. Particularly, appellant notes that his interpreter only had one year of interpreting experience, was not a certified interpreter, was an independent contractor of another interpreter, and could not adequately recall appellant's case when she testified at the evidentiary hearing. We conclude that appellant's due process rights were not violated because there is no indication in the

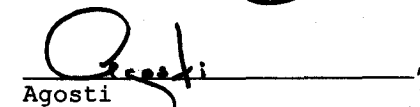
²See *State v. Freese*, 116 Nev. ___, ___, 13 P.3d 442, 448 (2000) (reaffirming that the totality of circumstances test is used in considering whether a plea is knowing and voluntary); see also *Robles v. State*, 91 Nev. 141, 143, 532 P.2d 1033, 1034 (1975) (holding that a plea was knowing and voluntary where there was no evidence to show that translation difficulties caused defendant any misunderstanding regarding his guilty plea).

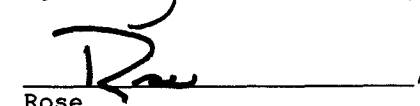
record that appellant's court-authorized interpreter failed to accurately and reliably translate correct information.³

Having reviewed appellant's contentions and concluded that they lack merit, we hereby

ORDER the judgment of the district court AFFIRMED.


_____, J.
Shearing


_____, J.
Agosti


_____, J.
Rose

cc: Hon. Steven R. Kosach, District Judge
Attorney General
Washoe County District Attorney
Karla K. Butko
Washoe County Clerk

³See, e.g., NRS 50.051; *Ton v. State*, 110 Nev. 970, 878 P.2d 986 (1994) (holding that due process of law requires that the criminal defendant understand the proceedings going on around him).