

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE ALVARO OCHOA-LOPEZ,

No. 37475

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

JAN 23 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court dismissing appellant's motion to withdraw a guilty plea.

On August 17, 1995, the district court convicted appellant, pursuant to a guilty plea, of one count of trafficking in a controlled substance (Level II). The district court sentenced appellant to serve a term of fifteen years in the Nevada State Prison. No direct appeal was taken.

On August 7, 1996, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. The district court appointed counsel, and counsel filed a supplemental petition. On June 17, 1998, after conducting an evidentiary hearing, the district court entered a final order denying appellant's petition. This court affirmed the order of the district court.¹

¹Ochoa-Lopez v. Warden, 116 Nev. 448, 997 P.2d 136 (2000).

On January 11, 2001, appellant filed a motion to withdraw a guilty plea in the district court. The State opposed the motion. On February 8, 2001, the district court dismissed the motion. This appeal followed.

In his motion, appellant first contended that he did not fully understand the consequences of his plea. Specifically, appellant argued that he was not informed that the sentence in the instant offense would have to be served consecutively to a sentence in another district court case because he committed the instant offense while he was on parole in the other district court case.²

The district court denied appellant's claim on the ground that it was barred by the doctrine of the law of the case.³ Based upon our review of the record on appeal, we conclude that the district court did not err. In his timely habeas corpus petition, appellant argued that his trial counsel was ineffective for failing to inform him that he faced consecutive sentences pursuant to NRS 176.035(2) and that this rendered his guilty plea involuntary and unknowing. The district court, after hearing testimony presented at the evidentiary hearing, denied this claim. This court, in affirming the order of the district court, rejected appellant's arguments and concluded that appellant's plea was entered voluntarily and knowingly. Appellant may not avoid the doctrine of the law of the case "by a more detailed and precisely focused argument subsequently made after reflection upon the previous proceedings."⁴

²See NRS 176.035(2).

³See Hall v. State, 91 Nev. 314, 535 P.2d 797 (1975).

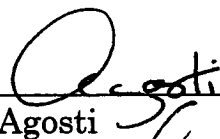
⁴See id. at 316, 535 P.2d at 799.

Next, appellant argued that the district court sentenced him under a mistake of fact that worked to his extreme detriment. Specifically, appellant argued that the presentence report failed to include the fact that appellant was on parole at the time he committed the instant offense. Appellant believed that the district court would have given him a more lenient sentence had the district court known that appellant would have to first serve time on the offense for which he had received parole. Because this claim fails to challenge the validity of the plea, we conclude that this claim was inappropriately raised in appellant's motion to withdraw a guilty plea.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.⁵ Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 _____, J.
Young

 _____, J.
Agosti

 _____, J.
Leavitt

⁵See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975), cert. denied, 423 U.S. 1077 (1976).

cc: Hon. Steven R. Kosach, District Judge
Attorney General/Carson City
Washoe County District Attorney
Jose Alvaro Ochoa-Lopez
Washoe County Clerk