

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTONIO CARRILLO,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 37658

FILED

JUL 12 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
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 was originally convicted, pursuant to a guilty plea, of possession of a trafficking quantity of a controlled substance. Prior to sentencing, appellant filed a motion to withdraw his plea contending that his guilty plea was not knowing and voluntary. After conducting a hearing, the district court denied appellant's motion. The district court then sentenced appellant to serve 30 years in prison and ordered him to pay a \$500,000.00 fine.

Appellant filed a direct appeal. This court rejected appellant's contention and affirmed his conviction, concluding that the district court did not err in finding that appellant's guilty plea was knowing and voluntary.¹ Thereafter, appellant filed a post-conviction petition for a writ of habeas corpus.


In the petition, appellant presented claims of


¹Carillo v. State, Docket No. 26484 (Order Dismissing Appeal, September 14, 1998).


ineffective assistance of counsel.² The district court found that counsel was not ineffective. The district court's factual findings regarding a claim of ineffective assistance of counsel are entitled to deference when reviewed on appeal.³ Appellant has not demonstrated that the district court's findings of fact are not supported by substantial evidence or are clearly wrong. Moreover, appellant has not demonstrated that the district court erred as a matter of law.⁴

Accordingly, for the reasons stated in the attached order of the district court, we

ORDER the judgment of the district court AFFIRMED.


Shearing, J.


Agosti, J.


Rose, J.

²Appellant also argued, in the petition, that the district court erred in denying his motion to withdraw his guilty plea because his plea was not knowing and voluntary. Because we have previously addressed this issue, we need not do so again. Our prior order affirming the district court's denial of appellant's motion to withdraw his guilty plea constitutes the law of the case. See Valerio v. State, 112 Nev. 383, 386-87, 915 P.2d 874, 876 (1996).

³See Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994).

⁴Appellant also contends that the district court abused its discretion in sentencing appellant because it relied on suspect evidence. Particularly, appellant argues that the district court misapprehended the length of the sentence it imposed because it stated at the habeas proceeding that appellant would only be required to serve twelve to fifteen years of his thirty-year prison term. This issue was not raised below. We therefore decline to consider it. See Davis v. State, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991). Moreover, the claim falls outside of the scope of a post-conviction petition challenging a guilty plea. See NRS 34.810 (1)(a).

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