

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAWRENCE SEVILLE PARKS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 38194

FILED

MAY 05 2004

ORDER OF AFFIRMANCE

JANEITE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Roberts*
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.

Appellant was convicted on March 16, 1998, pursuant to an Alford plea, of battery with intent to commit a crime.¹ He thereafter filed a timely proper person petition for a post-conviction writ of habeas corpus in the district court. The district court denied the petition without conducting an evidentiary hearing, and appellant filed a timely appeal.

On April 10, 2001, this court entered an order affirming in part, reversing in part, and remanding.² This court remanded the case to the district court for an evidentiary hearing to determine whether appellant's counsel in the trial court proceedings leading to appellant's conviction failed to file a direct appeal after appellant

¹North Carolina v. Alford, 400 U.S. 25 (1970).

²Parks v. State, Docket No. 33605 (Order of Reversal and Remand in Part, and Affirmance in Part, April 10, 2001)

expressed an interest in a direct appeal. This court affirmed the district court's denial of appellant's remaining claims.

On remand, the district court declined to appoint counsel to represent appellant but conducted an evidentiary hearing as instructed. Appellant's former counsel testified at the hearing that appellant did not express an interest in pursuing an appeal. When the district court provided appellant an opportunity to question his former counsel on this point, appellant replied that he was "taking the 5th." Following the hearing, the district court entered a written order finding that, based on the testimony of appellant's former counsel, appellant did not express an interest in filing a direct appeal. Thus, the district court concluded that appellant's former counsel was not obligated to file a notice of appeal and did not provide ineffective assistance.³


The district court's decision is supported by substantial evidence and is not clearly wrong.⁴ The district court did not err in rejecting appellant's claim that his former counsel provided ineffective assistance by failing to perfect an appeal. Having reviewed the record on appeal and for the reasons set forth above, we conclude that


³See Davis v. State, 115 Nev. 17, 974 P.2d 658 (1999).


⁴See Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1984).

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.⁶


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Hon. Sally L. Loehrer, District Judge
Lawrence Seville Parks
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁵See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁶We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.