

IN THE SUPREME COURT OF THE STATE OF NEVADA

TIANTE SCOTT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 40096

FILED

APR 09 2003

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a nolo contendere plea, of one count of conspiracy to possess a controlled substance. The district court sentenced appellant Tiante Scott to serve a prison term of 12 to 48 months.

Scott first contends that reversal of his conviction is warranted because his trial counsel were ineffective. While acknowledging that this court will not generally review claims of ineffective assistance of counsel on direct appeal, Scott argues that his claims should be considered on direct review because trial counsels' ineffectiveness is apparent from the face of the record. In particular, Scott notes that the record reveals that numerous attorneys were appointed to represent him and that all of them failed to take his case to trial despite the fact that two years elapsed since his arrest. Scott further alleges that he only pleaded nolo contendere out of frustration with trial counsels' unwillingness to defend his case at trial. We conclude that Scott's claims of ineffective assistance of counsel are not appropriate for review on direct appeal.

Claims of ineffective assistance of counsel "are generally more appropriately raised in the first instance in a post-conviction proceeding

where the district court can conduct an evidentiary hearing to review factual uncertainties."¹ In this case, there has been no evidentiary hearing on Scott's allegations of ineffective assistance of counsel and Scott has not demonstrated that such a hearing is not necessary.² Therefore, we decline to address Scott's claims; they are more appropriately raised in a post-conviction proceeding in the district court in the first instance.

Scott next contends that: (1) he was deprived of his right to a speedy trial; (2) the district court erred in denying his pretrial writ of habeas corpus; and (3) there was insufficient evidence to support his conviction. We conclude that Scott waived his right to appeal these issues.

Generally, the entry of a guilty or nolo contendere plea waives all errors, including constitutional errors, occurring prior to entry of the plea.³ Although a defendant entering a conditional plea may reserve the right to appeal an adverse determination on any specified pretrial motion,⁴ the record reveals that Scott did not enter a conditional plea. Accordingly, we decline to consider Scott's contentions involving events occurring prior to entry of his plea because he waived them by pleading nolo contendere.

¹See Johnson v. State, 117 Nev. 153, 160-61, 17 P.3d 1008, 1013 (2001).

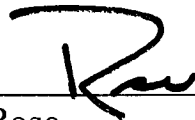
²See Jones v. State, 110 Nev. 730, 877 P.2d 1052 (1994) (concluding that evidentiary hearing was not necessary where counsel's actions were a matter of record, not disputed, and per se improper).


³Webb v. State, 91 Nev. 469, 538 P.2d 164 (1975); see also Warden v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (noting that a plea of nolo contendere constitutes a waiver of constitutional claims based on events occurring before entry of the plea).

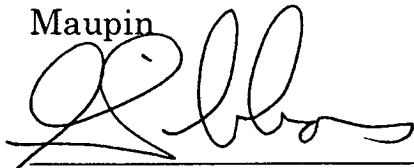
⁴See NRS 174.035(3).

Having reviewed Scott's contentions and concluded that they are either inappropriate for review on direct appeal or have been waived, we

ORDER the judgment of the district court affirmed.


_____, J.
Rose


_____, J.
Maupin


_____, J.
Gibbons

cc: Hon. Steven P. Elliott, District Judge
Karla K. Butko
Tiante Scott
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk