

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLIE DALE STAGGS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 41643

FILED

AUG 26 2004

ORDER OF AFFIRMANCE

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

This is an appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus. Third Judicial District Court, Churchill County; Archie E. Blake, Judge. Appellant was originally convicted, pursuant to a guilty plea, of two counts of sexual assault. The district court sentenced appellant to two consecutive prison terms of 25 years with parole eligibility after 10 years.

Appellant first argues that trial counsel was ineffective by failing to file an appeal on behalf of appellant. The district court specifically found, however, that appellant's testimony on this issue was not credible. The district court further found that appellant did not ask counsel to file an appeal. The district court's factual findings regarding a claim of ineffective assistance of counsel are entitled to deference when reviewed on appeal.<sup>1</sup> Appellant has not demonstrated that the district court's findings of fact are not supported by substantial evidence or are clearly wrong. We therefore conclude that this argument is without merit.

Appellant next argues that counsel was ineffective because he did not request a psychological evaluation to determine competency.

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<sup>1</sup>See Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994).

However, there is no indication in the record that appellant was not of sufficient mentality to be able to understand the nature of the charges against him or that he was not able to aid and assist his counsel.<sup>2</sup> In fact, a pre-sentencing psychological evaluation showed "no evidence of hallucinations or delusions. [Appellant] is oriented to time, place, person, and situation. Short term memory is without defect. Remote memory intact. [Appellant] is able to grasp coherent abstract concepts." We therefore conclude that this claim is belied by the record, and appellant's argument is without merit.<sup>3</sup>

In the petition below, appellant argued that his guilty plea was invalid because counsel failed to inform appellant that he would not be eligible for parole unless he was certified by a panel not to represent a high risk to reoffend.<sup>4</sup> The district court found that the requirement for certification before obtaining parole was a collateral consequence of appellant's guilty plea, and counsel had no duty to inform appellant of the requirement.<sup>5</sup> Appellant concedes that this conclusion is based upon existing law and does not constitute error. Appellant argues, however, that he pleaded guilty because of the combined effect of the lack of a

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<sup>2</sup>See NRS 178.400(2).

<sup>3</sup>See Hargrove v. State, 100 Nev. 498, 503, 686 P.2d 222, 225 (1984).

<sup>4</sup>See NRS 213.1214.


<sup>5</sup>See Little v. Warden, 117 Nev. 845, 849 n.9, 34 P.3d 540, 543 n.9 (2001) (noting that parole is a collateral consequence); see also Palmer v. State, 118 Nev. 823, 826, 59 P.3d 1192, 1194 (2002) (holding that awareness of a collateral consequence is not a prerequisite to a valid guilty plea).


competency evaluation and that he was not informed of the certification requirement.

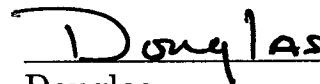
As previously noted, there is no evidence that a competency evaluation was required prior to the entry of his plea, and appellant has not demonstrated that the district court erred by concluding that counsel had no duty to inform appellant of the certification requirement. Appellant has not demonstrated error as to either issue, and considering them together does not render them erroneous.

Having considered appellant's contentions and concluded that they are without merit, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Douglas

cc: Hon. Archie E. Blake, District Judge  
Rick Lawton  
Attorney General Brian Sandoval/Carson City  
Churchill County District Attorney  
Churchill County Clerk