

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLARK D. MORSE A/K/A CLARK K.
MORSE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 42091

FILED

OCT 06 2004

ORDER OF REVERSAL AND REMAND

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. Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

Appellant was originally convicted, pursuant to a jury verdict, of driving while under the influence of alcohol resulting in the death of another (Count I), driving while under the influence of alcohol resulting in substantial bodily harm to another (Count II), leaving the scene of an accident (Counts V-XI), and driving on a revoked license (Count XIII). The district court sentenced appellant: for Count I, to a prison term of 96 to 240 months; for Count II to a consecutive prison term of 96 to 240 months; and for Counts V through XI, to seven concurrent prison terms of 35 to 156 months, three of which were ordered to run consecutive to Count I; and to a 30-day jail term for Count XIII. On appeal, this court affirmed the judgment of conviction.¹

Appellant filed a post-conviction petition for a writ of habeas corpus in the district court on March 18, 2003. The State filed a response

¹Morse v. State, Docket No. 37940 (Order of Affirmance, August 23, 2002).

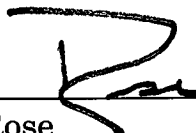
on June 2, 2003, and the district court conducted a hearing on July 8, 2003. The district court denied the petition, and this appeal followed.

Appellant argues that his counsel was ineffective for failing to argue that appellant could not be convicted of multiple counts of leaving the scene of an accident involving multiple vehicles. We agree.

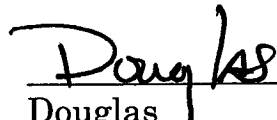
This court has held that NRS 484.219 allows only one charge of leaving the scene of a single accident, regardless of the number of people involved.² This court has reached the same conclusion where there is more than one vehicle involved in the accident.³ Accordingly, counsel was ineffective for failing to raise this issue.⁴

We therefore conclude that the district court erred by denying the petition, and we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.


_____, J.
Rose


_____, J.
Maupin


_____, J.
Douglas

²Firestone v. State, 120 Nev. 13, 18, 83 P.3d 279, 282 (2004).

³See Dettloff v. State, 120 Nev. ___, ___ P.3d ___ (Adv. Op. No. 67, September 16, 2004).

⁴See Strickland v. Washington, 466 U.S. 668 (1984).

cc: Hon. Valorie Vega, District Judge
Mills & Mills
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk