

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER JAMES KELLY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 42223

FILED

JUN 14 2004

ORDER OF AFFIRMANCE

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

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of possession of a controlled substance for the purpose of sale (Count I) and one count of principal to obtaining money, property, rent or labor by false pretenses (Count II). The district court sentenced appellant: for Count I, to a prison term of 12 to 34 months; and for Count II, to a consecutive prison term of 12 to 48 months.

Appellant first contends that his plea was entered involuntarily, and that there was no factual basis for the plea. However, this court

no longer permit[s] a defendant to challenge the validity of a guilty plea on direct appeal from the judgment of conviction. Instead a defendant must raise a challenge to the validity of his or her guilty plea in the district court in the first instance, either by bringing a motion to withdraw the guilty plea, or by initiating a post-conviction proceeding.¹


Appellant also contends that his trial counsel was ineffective for allowing appellant to enter a plea. However, claims of ineffective

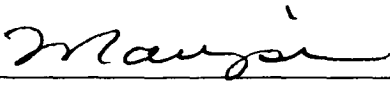
¹Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986).

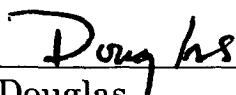
assistance of counsel may not be raised on direct appeal, unless the claims have already been the subject of an evidentiary hearing.²

Having concluded that neither of appellant's contentions are appropriate for review on direct appeal, we

ORDER the judgment of conviction AFFIRMED.


_____, J.
Rose


_____, J.
Maupin


_____, J.
Douglas

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

²Feazell v. State, 111 Nev. 1446, 906 P.2d 727 (1995).