

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOE WINSTON REEKS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 42792

FILED

NOV 15 2004

ORDER OF AFFIRMANCE

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

This is an appeal from an order of the district court denying appellant Joe Winston Reeks' post-conviction petition for a writ of habeas corpus. Third Judicial District Court, Churchill County; David A. Huff, Judge.

In January of 2000, Reeks was convicted, pursuant to a jury verdict, of one count each of conspiracy to commit robbery with a firearm, robbery with a firearm, battery with a deadly weapon, and being an ex-felon in possession of a firearm. The district court sentenced Reeks: for conspiracy, to a prison term of 16-72 months, with an equal and consecutive term for the firearm enhancement; for robbery, to a consecutive prison term of 40-180 months, with an equal and consecutive term for the firearm enhancement; for battery, to a concurrent prison term of 12-120 months; and for being an ex-felon in possession of a firearm, to a consecutive prison term of 16-72 months. On direct appeal, Reeks contended, among other things, that the district court erred by applying the deadly weapon enhancement provided for in NRS 193.165(1) to his conspiracy conviction. In Moore v. State, this court stated that it was "improper to enhance a sentence for conspiracy using the deadly weapon

enhancement.”¹ Therefore, this court vacated the consecutive enhancement term of Reeks’ conspiracy sentence.² The remittitur issued on January 2, 2002.

On December 24, 2002, Reeks filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. The district court appointed counsel to represent Reeks and conducted an evidentiary hearing. On December 12, 2003, the district court entered an order denying Reeks’ petition. This timely appeal followed.

In his petition, Reeks presented several claims of ineffective assistance of counsel. The district court found that counsel was not ineffective. The district court’s factual findings regarding a claim of ineffective assistance of counsel are entitled to deference when reviewed on appeal.³ Reeks has not demonstrated that the district court’s findings of fact are not supported by substantial evidence or are clearly wrong. Moreover, Reeks has not demonstrated that the district court erred as a matter of law. In fact, Reeks has not raised any issue on appeal, or alleged with any specificity how the district court may have erred in denying his claims beyond stating: “The [district court] order clearly

¹117 Nev. 659, 663, 27 P.3d 447, 450 (2001).

²Reeks v. State, Docket No. 35958 (Order Affirming in Part, Reversing in Part and Remanding, December 5, 2001).

³See Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994).

shows an abuse of discretion in not establishing support for the conclusion.”⁴ Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Becker _____, J.
Becker

Agosti _____, J.
Agosti

Gibbons _____, J.
Gibbons

cc: Hon. David A. Huff, District Judge
Rick Lawton
Attorney General Brian Sandoval/Carson City
Churchill County District Attorney
Churchill County Clerk

⁴See generally Maresca v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) (“It is appellant’s responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court.”).