

IN THE SUPREME COURT OF THE STATE OF NEVADA

GREGORY JAMES BENNETT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53993

FILED

APR 07 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant Gregory James Bennett's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Jerome Polaha, Judge.

Bennett contends the district court erred by failing to conduct an evidentiary hearing before denying his petition based on claims that ineffective assistance of counsel led him to enter an invalid plea and that trial counsel was ineffective for failing to (1) file a motion to suppress evidence seized after an illegal search, (2) investigate the facts of the case, (3) interview witnesses and victims, (4) develop and implement a defense strategy, (5) prepare for trial, and (6) present mitigation evidence at sentencing. Bennett also contends that appellate counsel was ineffective for failing to challenge the illegal search and seizure. Finally, Bennett claims that he should be allowed to withdraw his plea because of the cumulative effect of counsel's errors. We disagree.

When reviewing the district court's resolution of an ineffective-assistance claim, we give deference to the court's factual findings if they are supported by substantial evidence and not clearly

erroneous, but review the court's application of the law to those facts de novo. Lader v. Warden, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005). Here, the district court found that Bennett's claims "all include conclusory statements, lack specificity and fail to show prejudice or are repelled by the record," and therefore, did not warrant an evidentiary hearing. See Strickland v. Washington, 466 U.S. 668, 687-88 (1984) (establishing two-part test for ineffective assistance of counsel); Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996) (applying Strickland test to judgments of conviction based on guilty pleas); Mann v. State, 118 Nev. 351, 354, 46 P.3d 1228, 1230 (2002); Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). The district court's findings are supported by substantial evidence and are not clearly wrong, and Bennett has not demonstrated that the district court erred as a matter of law. Because Bennett has failed to demonstrate error or prejudice, we reject his claim of cumulative error. Therefore, we conclude that Bennett is not entitled to relief and we

ORDER the judgment of the district court AFFIRMED.

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Hon. Jerome Polaha, District Judge
O'Mara Law Firm, P.C.
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk