

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUBULLA LAMAR DENNIS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 55444

**FILED**

JUL 15 2010

ORDER OF AFFIRMANCE

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

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.<sup>1</sup> Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

In his petition filed on October 26, 2009, appellant claimed that he received ineffective assistance of trial counsel.<sup>2</sup> To state a claim of ineffective assistance of counsel sufficient to invalidate a judgment of conviction based on a guilty plea, a petitioner must demonstrate that his counsel's performance was deficient in that it fell below an objective standard of reasonableness, and resulting prejudice such that there is a

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<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

<sup>2</sup>To the extent that appellant raised claims independently from his ineffective assistance of counsel claims, those claims were outside the scope of claims permissible in a post-conviction petition for a writ of habeas corpus challenging a judgment of conviction based on a guilty plea. NRS 34.810(1)(a).

reasonable probability of a different result in the proceedings. Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Warden v. Lyons, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984) (adopting the test in Strickland). In order to demonstrate prejudice to invalidate the decision to enter a guilty plea, a petitioner must demonstrate a reasonable probability that the petitioner would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996). The court need not address both components of the inquiry if the petitioner makes an insufficient showing on either one. Strickland, 466 U.S. at 697.

First, appellant claimed that his trial counsel failed to object to the State's breach of the plea agreement. Appellant asserted that he was to receive probation under the plea agreement. Appellant failed to demonstrate that his trial counsel's performance was deficient or that he was prejudiced. The plea agreement was not breached as the promise of probation was not a term of the agreement and appellant was informed that the decision of whether to impose probation was left to the discretion of the district court. Further, when appellant received a prison sentence, appellant's trial counsel asked the district court to reconsider the decision. Appellant failed to demonstrate that there was a reasonable probability of a different result had trial counsel objected further. Therefore, we conclude that the district court did not err in denying this claim.

Second, appellant claimed that his trial counsel was ineffective for failing to advise him of the special sentence of lifetime supervision. Appellant failed to demonstrate that trial counsel's performance was deficient because the district court did not impose the special sentence of lifetime supervision in this case. Therefore, we

conclude that the district court did not err in denying this claim.  
Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.  
Hardesty

Douglas, J.  
Douglas

Pickering, J.  
Pickering

cc: Hon. Valorie Vega, District Judge  
Jubulla Lamar Dennis  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk