

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER WOOD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57767

FILED

SEP 15 2011

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Sally L. Loehrer, Judge.

In his petition filed on July 22, 2010, appellant claimed that counsel was ineffective for waiving the requirement that the State file a timely notice of habitual criminal adjudication. Appellant failed to demonstrate that counsel was deficient or that he was prejudiced. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996). While the State did not file the notice of habitual criminal until the day of the change of plea and sentencing hearing, appellant failed to demonstrate that counsel was deficient for waiving the notice because appellant was put on notice when he stipulated

¹This 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 Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

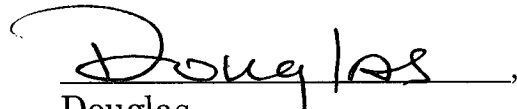
to habitual criminal treatment.² Further, appellant failed to demonstrate a reasonable probability that he would not have pleaded guilty and would have insisted on going to trial had counsel not waived the timely notice. Id. Appellant received a substantial benefit by pleading guilty. In exchange for his guilty plea and stipulation to habitual criminal treatment, the State dismissed nine additional charges and two separate criminal cases. Therefore, the district court did not err in denying this claim.

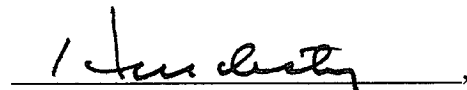
To the extent that appellant claimed that his plea was involuntary because the State misrepresented the plea agreement, this claim is without merit. Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986); see also Hubbard v. State, 110 Nev. 671, 675, 877 P.2d 519, 521 (1994). Appellant cites to the plea agreement's section regarding the consequences of the plea and claims that because the punishments listed under that section are much less than what he stipulated to, the State misrepresented the plea agreement. However, appellant admitted that he knew that he was stipulating to habitual criminal treatment, which allows a sentence to be enhanced beyond the maximums set by specific criminal statutes. Further, appellant was informed of the penalties of habitual criminal adjudication in the plea agreement. Therefore, appellant failed to demonstrate that the State misrepresented the terms of the agreement or that his plea was involuntary, and the district court did not err in denying this claim.

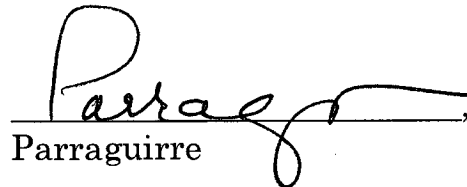
²At the hearing, the State provided certified copies of appellant's three previous felony convictions.

Finally, appellant raised various claims that the district court erred by sentencing him as a habitual criminal. These claims fell outside the scope of claims permissible in a post-conviction petition for a writ of habeas corpus challenging a judgment of conviction based upon a guilty plea. NRS 34.810(1)(a). Therefore, the district court did not err in denying these claims. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 J.
Douglas

 J.
Hardesty

 J.
Parraguirre

cc: Hon. Sally L. Loehrer, District Judge
Christopher Wood
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk