

IN THE SUPREME COURT OF THE STATE OF NEVADA

HAPPY HANK WILLIAMS, SR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58541

FILED

MAY 09 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

ORDER OF AFFIRMANCE

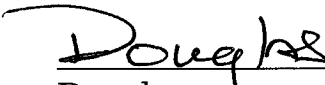
This is an appeal from a district court order dismissing appellant Happy Hank Williams, Sr.'s post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Robert H. Perry, Judge.


Williams contends that the district court erred by denying his claim that counsel was ineffective when litigating the presentence motion to withdraw his guilty plea because counsel (1) improperly framed the issue raised in the motion and (2) failed to call his treating physician to testify. When reviewing the district court's resolution of an ineffective-assistance claim, we give deference to the court's factual findings if 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).

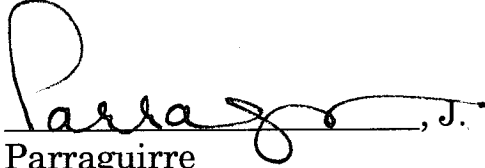
In his presentence motion to withdraw his guilty plea, Williams contended that his prior counsel was ineffective for advising him that the fact that he was in a diabetic coma at the time of the robbery was not a defense. In his post-conviction petition, Williams alleged that counsel was ineffective in prosecuting the motion to withdraw because he should have (1) argued that Williams was not aware of what he was doing

at the time of the robbery because his blood glucose levels were not under control and (2) called Williams' treating physician to testify. The district court's order summarily concluded that "the issue of whether Petitioner was in a diabetic coma is substantially similar to the issue of whether Petitioner did not know what he was doing because his blood glucose levels were out of control" and declined to revisit the issue. This finding of fact is not supported by substantial evidence because it conflates the claims raised in Williams' presentence motion to withdraw the guilty plea and the post-conviction petition. Nevertheless, we conclude that the district court did not err by dismissing Williams' petition because he did not demonstrate a reasonable probability that the motion to withdraw would have been granted but for counsel's errors. See Strickland v. Washington, 466 U.S. 668, 687 (1984) (establishing two-part test for ineffective assistance of counsel); Wyatt v. State, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) (this court may affirm the decision of the district court if it reaches the correct result for the wrong reason). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Chief Judge, Second Judicial District Court
Glynn B. Cartledge
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk