

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD LEE BURCHETT,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 61819

**FILED**

**MAY 14 2013**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *Angela*  
DEPUTY CLERK

ORDER OF AFFIRMANCE


This is an appeal from a judgment of conviction entered pursuant to a guilty plea of possession of a controlled substance. Third Judicial District Court, Lyon County; Leon Aberasturi, Judge.

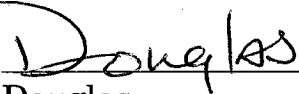
First, appellant Richard Lee Burchett contends that defense counsel was ineffective for ignoring his statements that he was set-up because someone else placed the methamphetamine in his bathrobe pocket. "This court has repeatedly declined to consider ineffective-assistance-of-counsel claims on direct appeal unless the district court has held an evidentiary hearing on the matter or an evidentiary hearing would be needless." *Archanian v. State*, 122 Nev. 1019, 1036, 145 P.3d 1008, 1020-21 (2006). As Burchett has not alleged that either of these exceptions apply, we decline to consider this contention on direct appeal.


Second, Burchett challenges the validity of his guilty plea, arguing that the prosecutor failed to disclose exculpatory evidence that would prove that he was set-up when someone else placed the methamphetamine in his bathrobe pocket. "Generally, we will not review a plea-validity challenge that is raised for the first time on appeal. There are exceptions to this rule in cases where: (1) the error clearly appears from the record; or (2) the challenge rests on legal rather than factual

allegations.” *O’Guinn v. State*, 118 Nev. 849, 851-52, 59 P.3d 488, 489-90 (2002) (footnotes omitted). As Burchett has not alleged that either of these exceptions apply, we decline to consider this contention on direct appeal.

Having concluded that Burchett is not entitled to relief, we  
ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Saitta

cc: Hon. Leon Aberasturi, District Judge  
Paul G. Yohey  
Attorney General/Carson City  
Lyon County District Attorney  
District Court Clerk