Affirmed and Opinion filed February 14, 2002.

In The

Fourteenth Court of Appeals

NO. 14-01-00414-CR
NO. 14-01-00415-CR
NO. 14-01-00416-CR
NO. 14-01-00417-CR
NO. 14-01-00418-CR
NO. 14-01-00419-CR

MICHAEL LEE MONTGOMERY, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 230th District Court
Harris County, Texas
Trial Court Cause Nos. 845,069; 845,068; 845,067; 845,066; 845,064; 845,065

O P I N I O N

Appellant, Michael Lee Montgomery, pleaded guilty to six counts of aggravated robbery and was sentenced to fifty years' confinement in the Texas Department of Criminal Justice, Institutional Division. In his sole point of error, appellant claims he received ineffective assistance from his trial counsel. We affirm.

Appellant was charged by separate indictments with six counts of aggravated robbery. On January 4, 2001, appellant entered a plea of guilty and signed a Waiver of Constitutional Rights, Agreement to Stipulate, and Judicial Confession for all six causes, confessing that the allegations in each indictment were true. However, in a handwritten letter addressed to the trial court judge, apparently written the same day,[1] appellant stated "I didn't want to plead guilty" and that his trial counsel "manipulated me into saying I [was] guilty." Appellant repeated these claims in a second letter to the judge dated January 17. Appellant then filed a pro se motion to withdraw his pleas, contending that the guilty pleas were against his will. At the sentencing hearing, the trial court denied appellant's request to withdraw his pleas, noting that the court had already taken the matters under advisement. At the conclusion of the hearing, the trial court found appellant guilty in all six causes and assessed punishment for each at fifty years' confinement, with the sentences to be served concurrently. Appellant timely filed a notice of appeal, which was reviewed and authorized by the trial court. *See* TEX. R. APP. P. 25.2(b)(3).

In his sole point of error, appellant contends he received ineffective assistance of counsel. Specifically, appellant claims his trial counsel forced him to plead guilty against his will. In challenging the voluntariness of a guilty plea on grounds that an appellant did not receive effective assistance of counsel, appellant must prove (1) trial counsel's advice fell outside the range of competence demanded of attorneys in criminal cases and (2) there is a reasonable probability that, but for counsel's erroneous advice, appellant would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 58-59, 106 S. Ct. 366, 370 (1985); *Ex parte Morrow*, 952 S.W.2d 530, 536 (Tex. Crim. App. 1997).

The review of counsel's representation is highly deferential and we must indulge a strong presumption that counsel's conduct falls within a wide range of reasonable

[1] Although the date on the letter was "1/4/00," the content of the letter suggests it was actually written on January 4, 2001.

representation. *McFarland v. State*, 928 S.W.2d 482, 500 (Tex. Crim. App. 1996). Any allegation of ineffectiveness must be firmly founded in the record and the record must affirmatively demonstrate the alleged ineffectiveness. *Id.* Appellant must also affirmatively prove prejudice. *Id.* The failure of appellant to make the required showing of deficient representation or sufficient prejudice defeats an ineffective assistance claim. *Id.*

The record reflects appellant signed statements stating that he was satisfied his attorney had properly represented him and that he had fully discussed each case with his counsel. Appellant's bare assertions to the contrary are not sufficient to establish that his counsel's performance was deficient. *See Greeno v. State*, 46 S.W.3d 409, 416 (Tex. App.—Houston [14th Dist.] 2001, no pet.). Appellant also signed statements requesting the trial court to accept his pleas "after having fully consulted with my attorney" and stating that his pleas were "freely and voluntarily made." Having attested in writing that his guilty pleas were voluntary, appellant has a heavy burden to prove on appeal that the pleas were involuntary. *See Lee v. State*, 39 S.W.3d 373, 375 (Tex. App.—Houston [1st Dist.] 2001, no pet.). At the sentencing hearing, when appellant was asked whether he had "anything to say why sentence of the law shall not be pronounced against you," he answered, "No." We find appellant has failed to establish that his pleas were involuntary or that he received ineffective assistance of counsel. Accordingly, we overrule appellant's sole point of error.

We affirm the trial court's judgment.

/s/ Leslie Brock Yates
Justice

Judgment rendered and Opinion filed February 14, 2002.

Panel consists of Justices Yates, Edelman, and Guzman.

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