This opinion is subject to petition for rehearing

Filed 2/3/09 by Clerk of Supreme Court

IN THE SUPREME COURT

STATE OF NORTH DAKOTA

2009 ND 4

Terry Lee Pribyl, Petitioner and Appellant

v.

State of North Dakota, Respondent and Appellee

No. 20080185

Appeal from the District Court of Burleigh County, South Central Judicial District, the Honorable Donald L. Jorgensen, Judge.

AFFIRMED.

Per Curiam.

Steven Balaban (argued), 418 E. Rosser Ave., Ste. 102, Bismarck, ND 58501-4046, for petitioner and appellant.

Lloyd C. Suhr (argued), Assistant State's Attorney, Courthouse, 514 E. Thayer Ave., Bismarck, ND 58501, for respondent and appellee.

Pribyl v. State

No. 20080185

Per Curiam.

[¶1] Terry Pribyl ("Pribyl") appeals from a district court order denying his application for post-conviction relief.

[¶2] On September 19, 2005, Pribyl was charged with corruption of a minor. An attorney represented Pribyl. Initially, Pribyl pled not guilty. The district court held a change of plea hearing on March 15, 2006, and Pribyl pled guilty. On July 21, 2006, the district court sentenced Pribyl to a term of five years with all five years suspended for three years.

[¶3] On February 19, 2008, Pribyl, acting pro se, filed an application for post-conviction relief asserting he received ineffective assistance of counsel. The district court appointed new counsel to represent Pribyl. The district court held a post-conviction relief hearing on June 18, 2008. The district court determined Pribyl received effective assistance of counsel; therefore, it denied Pribyl's petition for post-conviction relief. Pribyl appeals.

[¶4] On appeal, Pribyl asserts the district court improperly denied his petition for post-conviction relief on the grounds of ineffective assistance of counsel, because: his counsel did not conduct a sufficient investigation; his counsel did not communicate all of the information of the case to him; he maintained his innocence to his counsel, yet his counsel advised him to plead guilty; and his counsel did not properly advise him on the issue of his previous conviction. We summarily affirm under N.D.R.App.P. 35.1(a)(2).

[¶5] Gerald W. VandeWalle, C.J.
Carol Ronning Kapsner
Mary Muehlen Maring
Daniel J. Crothers
Dale V. Sandstrom