

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CARL ERIC KREHNOVI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 67433

**FILED**

JUN 16 2015

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

*ORDER OF AFFIRMANCE*

This is an appeal from a district court order denying a post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Nancy A. Becker, Senior Judge.

*Ineffective assistance of counsel*

Appellant Carl Eric Krehnovi argues the district court erred by rejecting his claims of ineffective assistance of counsel without an evidentiary hearing.

“We review the district court’s determination that a petitioner is not entitled to an evidentiary hearing for abuse of discretion.” *Stanley v. Schriro*, 598 F.3d 612, 617 (9th Cir. 2010). A district court may reject a claim without conducting an evidentiary hearing when the claim (1) is belied by the record; (2) is not supported by specific facts, which, if true, would entitle petitioner to relief; or (3) is procedurally barred and the petitioner has failed to overcome the procedural bar. *Rubio v. State*, 124 Nev. 1032, 1046 & n.53, 194 P.3d 1224, 1233-34 & n.53 (2008). To state a meritorious claim of ineffective assistance of counsel, a petitioner must allege specific facts that show counsel’s performance was deficient and resulted in prejudice. *Strickland v. Washington*, 466 U.S. 668, 687 (1984).

First, Krehnovi claimed counsel was ineffective for failing to conduct an adequate investigation before advising him to plead guilty. The district court found this claim was not meritorious because Krehnovi failed to show “that a better investigation would have provided a more favorable outcome.” The record supports this finding and we conclude the district court did not err by denying this claim without an evidentiary hearing. *See Molina v. State*, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004) (a petitioner claiming that counsel did not conduct an adequate investigation must specify what a more thorough investigation would have uncovered).

Second, Krehnovi claimed counsel was ineffective for failing to communicate with him about his case. The district court found this claim was belied by the record—specifically, the certificate of counsel attached to Krehnovi’s guilty plea agreement and the plea canvass, during which Krehnovi acknowledged that counsel had answered his questions about the plea agreement. The record supports this finding and we conclude the district court did not err by denying this claim without an evidentiary hearing.

Third, Krehnovi claimed counsel was ineffective for failing to file an appropriate pretrial motion challenging the validity of the State’s case. Krehnovi argued that he was detained by security guards for three hours, the detention was unlawful under NRS 171.123, and the unlawful detention provided him with a defense. The district court found this claim was not meritorious because the security guards were not state actors and therefore Krehnovi’s detention had no impact on his case. We conclude Krehnovi failed to demonstrate that such a motion had a reasonable probability of success and therefore the district court did not err by denying this claim without an evidentiary hearing.

### *Validity of guilty plea*

Krehnovi argues the district court erred by rejecting his claim that his guilty plea was invalid. In his petition, Krehnovi claimed his plea was coerced by counsel's failure to conduct a proper investigation, communicate with him about his case, and file appropriate pretrial motions challenging the validity of the State's case.

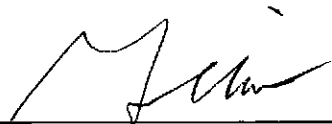
After conviction, a district court may permit a defendant to withdraw a guilty plea where necessary "[t]o correct manifest injustice." NRS 176.165. "A guilty plea entered on advice of counsel may be rendered invalid by showing a manifest injustice through ineffective assistance of counsel." *Rubio*, 124 Nev. at 1039, 194 P.3d at 1228. "[We] will not overturn the district court's determination on manifest injustice absent a clear showing of an abuse of discretion." *Id.* at 1039, 194 P.3d at 1229 (internal quotation marks omitted).


The district court found Krehnovi entered his plea knowingly and voluntarily and his claim of being forced to plead guilty was belied by the record—specifically, the written plea agreement and the district court's plea canvass. We note the record demonstrates that Krehnovi acknowledged he signed the plea agreement "voluntarily, after consultation with [his] attorney, and [he was] not acting under duress or coercion or by virtue of any promises of leniency," and he informed the plea canvass court no one was forcing him to plead guilty. We conclude Krehnovi failed to demonstrate manifest injustice and the district court did not err by denying his claim.

*Cumulative error*

Krehnovi argues the district court erred in denying his habeas petition because the cumulative effect of counsel's errors warranted relief. However, even assuming multiple deficiencies in counsel's performance may be cumulated to find prejudice under the *Strickland* test, see *McConnell v. State*, 125 Nev. 243, 259 n.17, 212 P.3d 307, 318 n.17 (2009), the district court did not find any such deficiencies, so there was nothing to cumulate.

Having concluded Krehnovi is not entitled to relief, we  
ORDER the judgment of the district court AFFIRMED.

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

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Chief Judge, Eighth Judicial District Court  
Hon. Nancy A. Becker, Senior Judge  
Nguyen & Lay  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk