

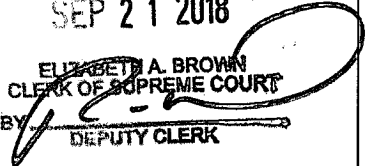
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VALLIENT MOORE, A/K/A VALIANT
MOORE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74514

FILED

SEP 21 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Vallient Moore appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on February 21, 2017.¹ Eighth Judicial District Court, Clark County; Carolyn Ellsworth, Judge.

First, Moore claims the district court erred by denying his petition because he was deprived of effective assistance of counsel during the plea-bargaining process. In his petition, Moore claimed defense counsel was ineffective by misrepresenting the penalties he faced if he was convicted at trial, not conducting an adequate investigation, and failing to file a motion to sever his trial from that of his codefendants. The district court found these “claims [were] barred by the law of the case doctrine as they have been previously decided on direct appeal and may not be reargued in the instant petition.” The district court’s finding is supported by the record on appeal, and we conclude the district court did not err in denying Moore’s petition on this basis. *See Moore v. State*, Docket No. 67684 (Order

¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

of Affirmance, January 21, 2016); *Pellegrini v. State*, 117 Nev. 860, 888, 34 P.3d 519, 538 (2001); *Hall v. State*, 91 Nev. 314, 315-16, 535 P.2d 767, 798-99 (1975).


Next, Moore claims the district court erred by denying his petition without conducting an evidentiary hearing. A petitioner is entitled to an evidentiary hearing only if he has asserted specific factual allegations that are not belied or repelled by the record and, if true, would entitle him to relief. *Nika v. State*, 124 Nev. 1272, 1300-01, 198 P.3d 839, 858 (2008). We review a district court's determination that a petitioner is not entitled to an evidentiary hearing for abuse of discretion. *Berry v. State*, 131 Nev. 957, 969, 363 P.3d 1148, 1156 (2015). Here, the record demonstrates Moore previously received an evidentiary hearing on these claims when they were raised in his presentence motion to withdraw his guilty plea and the claims would not have entitled him to relief because they were raised and rejected on direct appeal. Accordingly, we conclude the district court did not abuse its discretion by denying Moore's petition without an evidentiary hearing.

Finally, Moore claims the district court erred by denying his petition without appointing postconviction counsel. The Nevada Supreme Court has recently "stress[ed] the decision whether to appoint counsel under NRS 34.750(1) is not necessarily dependent upon whether a pro se petitioner has raised claims that clearly have merit or would warrant an evidentiary hearing[:]" instead, this decision turns on whether the appointment of counsel is essential to ensure the petitioner has "a meaningful opportunity to present his or her claims to the district court." *Renteria-Novoa v. State*, 133 Nev. ___, ___, 391 P.3d 760, 762 (2017). Here, the record demonstrates Moore had a meaningful opportunity to present his claims to the district court. Accordingly, we conclude the district court did

not abuse its discretion by denying Moore's petition without appointing postconviction counsel.

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


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Carolyn Ellsworth, District Judge
Vallient Moore
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk