

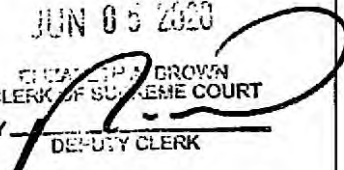
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOSEPH WAYNE JONES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78668-COA

FILED

JUN 05 2020

THOMAS P. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Joseph Wayne Jones appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

Jones argues the district court erred by denying the claims of ineffective assistance of counsel he raised in his August 24, 2018, petition. To prove ineffective assistance of counsel, a petitioner must demonstrate counsel's performance was deficient in that it fell below an objective standard of reasonableness, and resulting prejudice such that there is a reasonable probability, but for counsel's errors, the outcome of the proceedings would have been different. *Strickland v. Washington*, 466 U.S. 668, 687-88 (1984); *Warden v. Lyons*, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984) (adopting the test in *Strickland*). To demonstrate prejudice regarding the decision to enter a guilty plea, a petitioner must demonstrate a reasonable probability, but for counsel's errors, petitioner would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 58-59 (1985); *Kirksey v. State*, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996). Both components of the inquiry must be shown. *Strickland*, 466 U.S. at 697. To warrant an evidentiary hearing, petitioner must raise

claims supported by specific factual allegations that are not belied by the record and, if true, would entitle him to relief. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

First, Jones claimed that his counsel was ineffective for failing to conduct an adequate investigation. A petitioner claiming that counsel should have conducted investigation must identify what the investigation would have revealed. *See Molina v. State*, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004). Jones failed to allege what further information counsel could have discovered through a more thorough investigation or how any lack of additional investigation affected his decision to enter a guilty plea. Therefore, Jones failed to demonstrate his counsel's performance fell below an objective standard of reasonableness or a reasonable probability, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial. We conclude the district court did not err by denying this claim without conducting an evidentiary hearing.

Second, Jones claimed that his counsel was ineffective for failing to ensure his guilty plea was entered knowingly and voluntarily. Jones contended counsel coerced him into entering a guilty plea because counsel did not investigate the case or explain potential defenses to him. In the written plea agreement, Jones acknowledged that he entered his plea voluntarily and did not act under duress or coercion. Jones also acknowledged in the written plea agreement that he had discussed potential defenses with his counsel and counsel had answered all of his questions regarding the agreement. In light of Jones' acknowledgments in the written plea agreement, Jones failed to demonstrate his counsel's performance fell below an objective standard of reasonableness or a reasonable probability, but for counsel's errors, he would not have pleaded

guilty and would have insisted on going to trial. We conclude the district court did not err by denying this claim without conducting an evidentiary hearing.

Third, Jones claimed that his counsel was ineffective for failing to communicate with him. Jones contended he was not informed of potential defenses or of the potential range of sentences he faced. As stated previously, Jones acknowledged in the written plea agreement that counsel had explained potential defenses to him. The written plea agreement, which Jones acknowledged he read and understood, also explained the potential range of sentences he faced by entry of his plea. In addition, Jones acknowledged he had discussed potential circumstances which might have been in his favor with counsel and decided that accepting the plea bargain was in his best interests. In light of Jones' acknowledgments in the written plea agreement, Jones failed to demonstrate his counsel's performance fell below an objective standard of reasonableness or a reasonable probability, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial had counsel further communicated with him concerning potential defenses or potential penalties. We conclude the district court did not err by denying this claim without conducting an evidentiary hearing.

Fourth, Jones claimed that his counsel was ineffective at the sentencing hearing. Jones contended counsel did not explain the sentencing proceeding or review the plea deal and presentence investigation report prior to the hearing. Jones only raised bare allegations concerning counsel's alleged failures at the sentencing hearing and did not provide specific facts concerning these alleged errors. Moreover, Jones did not explain how he suffered prejudice at the sentencing hearing due to any of these errors.

Because Jones did not raise claims supported by specific factual allegations, he failed to demonstrate he was entitled to relief. *See Hargrove*, 100 Nev. at 502-03, 686 P.2d at 225. Therefore, we conclude the district court did not err by denying this claim without conducting an evidentiary hearing.

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


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Eric Johnson, District Judge
Gregory & Waldo, LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk