

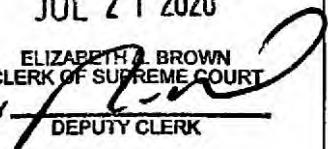
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEPHEN DOUGLAS WILLIAMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78676-COA

FILED

JUL 21 2020

ELIZABETH L. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Stephen Douglas Williams appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on March 6, 2018. Eighth Judicial District Court, Clark County; James M. Bixler, Senior Judge.¹

Ineffective assistance of counsel

Williams claimed that defense counsel was ineffective. To state a claim of ineffective assistance of counsel sufficient to invalidate a judgment of conviction based on a guilty plea, a petitioner must show (1) counsel's performance was deficient in that it fell below an objective standard of reasonableness and (2) a reasonable probability, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 58-59 (1985); *Strickland v. Washington*, 466 U.S. 668, 687 (1984); *Kirksey v. State*, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996). The petitioner must demonstrate both

¹The Honorable Joseph T. Bonaventure, Senior Judge, presided over the hearing conducted on Williams' postconviction habeas petition.

components of the ineffective-assistance inquiry—deficiency and prejudice. *Strickland*, 466 U.S. at 697.

We review the district court's resolution of ineffective-assistance claims de novo, giving deference to the court's factual findings if they are supported by substantial evidence and not clearly wrong. *Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005).

First, Williams claimed that defense counsel was ineffective for failing to adequately investigate or prepare for trial prior to advising him to enter a guilty plea. And he argued that defense counsel should have retained an expert to determine whether the substance removed from his coat was in fact methamphetamine. The district court found that Williams did not carry his burden to demonstrate ineffective assistance of counsel for the following reasons: He did not show how a better investigation would have made a more favorable outcome probable. He did not demonstrate but for the lack of an adequate investigation he would have insisted on going to trial. And his claim was simply a bare allegation that the substance removed from his coat might not have been methamphetamine.

We conclude the district court's findings are not clearly wrong and the district court did not err by rejecting Williams' bare postconviction claim. *See Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984) (explaining a petitioner is not entitled to postconviction relief if his claims are bare or naked).

Second, Williams claimed that defense counsel was ineffective for failing to file a motion to suppress the evidence seized when he was searched. Williams argued that the search was unlawful because he was stopped for a mere traffic violation, there was no indication he was armed and dangerous, there was no evidence to support probable cause for a

“custodial arrest,” and there was no warrant or valid exception to the warrant requirement. The district court rejected Williams’ claim, reasoning that any constitutional error arising from defense counsel’s failure to file a suppression motion was cured when Williams entered his guilty plea.

A petitioner who entered a guilty plea may not subsequently raise independent claims relating to the deprivation of constitutional rights that occurred before entry of the plea. *Webb v. State*, 91 Nev. 469, 470, 538 P.2d 164, 165 (1975). However, a claim that the petitioner was previously deprived of a constitutional right may play a part in evaluating whether defense counsel’s advice to enter a guilty plea fell “within the range of competence demanded of attorneys in criminal cases.” *Tollett v. Henderson*, 411 U.S. 258, 266 (1973) (quoting *McMann v. Richardson*, 397 U.S. 759, 771 (1970)). Here, Williams did not present cogent argument that this alleged deficient performance had any relation to his decision to enter a guilty plea. Therefore, we conclude the district court did not err by denying Williams’ claim on this ground.²

Evidentiary hearing

Williams claimed that he was entitled to an evidentiary hearing to resolve the disputed facts that were material to his ineffective-assistance-

²The district court also denied this claim on the ground that a motion to suppress would have been futile because Williams admitted to the police officers that the substance removed from his coat was methamphetamine. We conclude this ground lacks merit because Williams’ admission does not demonstrate the preceding search was legal and the admission itself would be inadmissible if the search was illegal. *See Somee v. State*, 124 Nev. 434, 444, 187 P.3d 152, 159 (2008) (“Unless a recognized exception applies, both physical evidence and a defendant’s statements obtained as a result of an illegal search or seizure should be suppressed.”)

of-counsel claims.³ A petitioner is entitled to an evidentiary hearing only if he has asserted specific factual allegations that are not belied by the record and that, if true, would entitle him to relief. *Hargrove*, 100 Nev. at 502-03, 686 P.2d at 225. 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). We conclude the district court did not abuse its discretion by determining that an evidentiary hearing was unnecessary because Williams failed to sufficiently plead that he was prejudiced by defense counsel's performance.

Cumulative error

Williams claimed cumulative error deprived him of a fair criminal proceeding. We conclude that Williams failed to demonstrate any error, so there was nothing to cumulate.

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


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

³To the extent Williams also claimed that an evidentiary hearing was necessary to determine whether there was sufficient evidence of guilt to justify a guilty plea, this claim lacked merit because a sufficiency-of-the-evidence claim falls outside the narrow scope of claims permissible in a postconviction petition for a writ of habeas corpus that arises from a guilty plea. See NRS 34.810(1)(a).

cc: Chief Judge, Eighth Judicial District Court
Hon. James M. Bixler, Senior Judge
Terrence M. Jackson
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk