

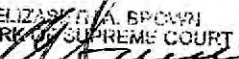
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAISHAUN WALKER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 79859-COA

FILED

SEP 28 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Daishaun Walker appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Carolyn Ellsworth, Judge.

Walker argues the district court erred by failing to conduct an evidentiary hearing before denying a claim of ineffective assistance of counsel raised in her October 9, 2018, petition and later-filed supplement. To demonstrate ineffective assistance of trial-level counsel sufficient to invalidate a judgment of conviction based on a guilty plea, a petitioner must show counsel's performance was deficient in that it fell below an objective standard of reasonableness and prejudice resulted in that, but for counsel's errors, there is a reasonable probability 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, 987-88, 923 P.2d 1102, 1107 (1996). Both components of the inquiry must be shown. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). To warrant an evidentiary hearing, the 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).

Walker claimed her counsel was ineffective for failing to properly explain the guilty plea agreement. Walker asserted she believed that the parties stipulated to a sentence of 24 to 60 months in prison and that she did not understand that the plea agreement actually permitted both parties to present arguments regarding the appropriate sentence.

Walker's claim was belied by the record. At the plea canvass, Walker personally acknowledged that she rejected a plea offer wherein the parties would have stipulated to a sentence of 24 to 60 months in prison. Moreover, Walker acknowledged at the plea canvass that she understood that her ultimate sentence was within the sole discretion of the district court and she had not been promised lenience or special treatment. At the plea canvass, Walker also acknowledged that she had reviewed the written plea agreement with her counsel, she understood the agreement, and had no questions regarding the agreement. In the written plea agreement, the parties retained the right to argue for the appropriate sentence. Walker further acknowledged in the written plea agreement that she understood the range of penalties she faced, she had not been promised she would receive a particular sentence, and she understood her sentence would be determined by the district court within the limits of prescribed statutes. Accordingly, we conclude the district court did not err by denying this claim without conducting an evidentiary hearing, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Carolyn Ellsworth, District Judge
Jeannie N. Hua
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk