

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROQUE LARA-AGUILAR,  
Appellant,  
vs.  
JAMES DZURENDA, DIRECTOR,  
NEVADA DEPT. OF CORRECTIONS,  
Respondent.

ROQUE LARA-AGUILAR,  
Appellant,  
vs.  
JAMES DZURENDA, DIRECTOR,  
NEVADA DEPT. OF CORRECTIONS,  
Respondent.

No. 80399-COA ✓

**FILED**

**JAN 08 2021**

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

No. 80401-COA

*ORDER OF AFFIRMANCE*

Roque Lara-Aguilar appeals from identical orders denying identical postconviction petitions for a writ of habeas corpus filed in district court case number PC7401 (Docket No. 80399) and district court case number PC7359 (Docket No 80401). Fifth Judicial District Court, Nye County; Kimberly A. Wanker, Judge.

Lara-Aguilar argues the district court erred by denying his claims of ineffective assistance of counsel raised in his September 2, 2014,

petitions and later-filed supplements.<sup>1</sup> To demonstrate ineffective assistance of defense 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).

First, Lara-Aguilar argued his counsel was ineffective for failing to review the written plea agreement with him and explain that the district court could impose consecutive sentences. At the plea canvass, Lara-Aguilar acknowledged a Spanish-language interpreter had read the written plea agreement to him, counsel was able to answer any questions he had, and he had no additional questions concerning the agreement. In the written plea agreement, Lara-Aguilar acknowledged he understood the district court could impose consecutive sentences. Moreover, at the plea canvass, the district court specifically explained that it had the discretion to impose consecutive sentences and Lara-Aguilar acknowledged that he understood. In light of the record, Lara-Aguilar failed to demonstrate his counsel's performance fell below an objective standard of reasonableness or

---

<sup>1</sup>Lara-Aguilar entered into a global plea deal, he was represented by the same counsel in both cases, and he pleaded guilty in both cases at the same hearing.



a reasonable probability he would have refused to plead guilty and insisted on proceeding to trial had counsel performed different actions regarding the written plea agreement. Therefore, we conclude the district court did not err by denying this claim.

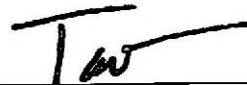
Second, Lara-Aguilar argued his counsel was ineffective for failing to retain an investigator and conduct an investigation. However, Lara-Aguilar did not identify any issues that counsel should have investigated and did not identify any information that an investigation would have revealed. Therefore, Lara-Aguilar failed to demonstrate counsel was deficient for failing to investigate or a reasonable probability he would have refused to plead guilty and would have insisted on proceeding to trial had counsel retained an investigator and conducted an investigation. *See Molina v. State*, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004) (a petitioner claiming counsel did not conduct an adequate investigation must show how a better investigation would have made a more favorable outcome probable). Accordingly, we conclude the district court did not err by denying this claim.

Third, Lara-Aguilar argued his counsel was ineffective for failing to explain that he risked deportation if he entered a guilty plea. Lara-Aguilar acknowledged in the written plea agreement that he understood he risked deportation as a result of entering a guilty plea. In addition, at the plea canvass Lara-Aguilar again acknowledged he understood he risked deportation as a consequence of his guilty plea. Counsel also informed the district court that Lara-Aguilar knew that he would be deported at the conclusion of his prison terms. Based on the

record, Lara-Aguilar failed to demonstrate his counsel's performance fell below an objective standard of reasonableness. Lara-Aguilar also failed to demonstrate a reasonable probability he would have refused to plead guilty and would have insisted on proceeding to trial had counsel explained Lara-Aguilar's risk of deportation in a different manner. Therefore, we conclude the district court did not err by denying this claim.

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

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

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

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Kimberly A. Wanker, District Judge  
David H. Neely, III  
Attorney General/Carson City  
Nye County District Attorney  
Nye County Clerk