

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROSE MAMEA LOCKLEAR,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 80789-COA

FILED

FEB 19 2021

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

ROSE MAMEA LOCKLEAR,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 80790-COA

ORDER OF AFFIRMANCE

Rose Mamea Locklear appeals from identical orders of the district court denying a June 2, 2019, postconviction petition for a writ of habeas corpus filed in district court case number A-19-795925-W (Docket No. 80790-COA). The district court's order was also filed in district court case number C-18-330066-1 (Docket No. 80789-COA). These cases were consolidated on appeal. See NRAP 3(b). Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

Locklear argues the district court erred by denying her claims of ineffective assistance of counsel. To demonstrate ineffective assistance of counsel, a petitioner must show counsel's performance was deficient in that it fell below an objective standard of reasonableness, and prejudice resulted in that there was a reasonable probability of a different outcome absent counsel's errors. *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 show a reasonable probability that, 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 687.

First, Locklear argued her counsel was ineffective because counsel did not have adequate discussions with her regarding defense strategy and the plea agreement. Locklear did not raise specific factual allegations regarding how her discussions with counsel concerning these issues were inadequate. Locklear also did not provide factual allegations sufficient to support an assertion that she would have refused to plead guilty and would have insisted on proceeding to trial had counsel discussed these issues with her in a more thorough manner. Because Locklear failed to allege specific facts that are not belied by the record and, if true, would have demonstrated deficiency and prejudice, we conclude the district court did not err by denying this claim. *See Rippo v. State*, 134 Nev. 411, 426, 423 P.3d 1084, 1100 (2018).

Second, Locklear argued her counsel was ineffective for failing to object when she was sentenced without having undergone a psychosexual evaluation. Locklear stipulated in the plea agreement to a sentence of 5 to 15 years in prison and the district court sentenced her in accordance with that agreement. Because Locklear received the sentence she stipulated to in the guilty plea agreement, Locklear failed to demonstrate a reasonable probability of a different outcome had counsel performed different actions

during the sentencing hearing. Therefore, we conclude the district court did not err by denying this claim.

Next, Locklear argued the State violated the plea agreement by failing to ensure she underwent a psychosexual evaluation before the sentencing hearing. However, this claim was not based on an allegation that Locklear's guilty plea was involuntarily or unknowingly entered or that her plea was entered without the effective assistance of counsel, and therefore, this claim was not appropriately raised in her petition. See NRS 34.810(1)(a). Therefore, the district court properly concluded Locklear was not entitled to relief based upon this claim. Accordingly, we

ORDER the judgments of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Tierra Danielle Jones, District Judge
Rose Mamea Locklear
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk