

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMES VALENTINE LACHUSA, II,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 80864-COA

FILED

MAR 25 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

James Valentine LaChusa, II, appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on September 5, 2018. Second Judicial District Court, Washoe County; Elliott A. Sattler, Judge.

LaChusa first contends the district court erred by denying his claim that his guilty plea was not knowingly and voluntarily entered. A guilty plea is presumptively valid, and a petitioner carries the burden of establishing that the plea was not valid. *Hubbard v. State*, 110 Nev. 671, 675, 877 P.2d 519, 521 (1994). Further, this court will not reverse a district court's determination concerning the validity of a plea absent a clear abuse of discretion. *Id.* In reviewing the district court's decision, this court looks to the totality of the circumstances. *State v. Freese*, 116 Nev. 1097, 1105, 13 P.3d 442, 448 (2000).

LaChusa argues his plea was not knowingly entered because trial-level counsel told him he would "receive 40% off of his sentence 'at the front end.'" Additionally, LaChusa asserts he felt coerced into pleading

guilty. At the evidentiary hearing on LaChusa's petition, trial-level counsel testified that he never told LaChusa he would receive an automatic 40% off the front of his sentence. The district court found trial-level counsel's testimony to be credible. Additionally, the trial-level court had conducted a thorough guilty plea canvass of LaChusa and advised him of the stipulated sentence. Further, during the evidentiary hearing, LaChusa conceded that he did not feel coerced into pleading guilty; instead, he felt a rush to accept the plea offer because it had an expiration date. Time constraints exist in every criminal case, and there is no indication in this case that a deadline rendered LaChusa's plea involuntary. *See Stevenson v. State*, 131 Nev. 598, 604-05, 354 P.3d 1277, 1281 (2015). For these reasons, we conclude the district court did not abuse its discretion in denying this claim.

Next, LaChusa contends the district court erred by denying his claims of ineffective assistance of trial-level counsel. To demonstrate ineffective assistance of 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, 687-88 (1984), and the petitioner must demonstrate the underlying facts by a preponderance of the evidence, *Means v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). We give deference to the court's


factual findings if supported by substantial evidence and not clearly erroneous but review the court's application of the law to those facts de novo. *Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005).

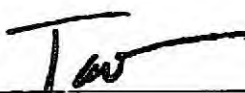
First, LaChusa argued trial-level counsel was ineffective for advising LaChusa he would "receive 40% off of his sentence 'at the front end.'" The district court found LaChusa failed to establish that trial-level counsel made that statement. The district court further found LaChusa was willing to plead guilty to avoid the possibility of a life sentence and would not have gone to trial instead of accepting the State's plea offer. These findings are supported by substantial evidence in the record. Thus, LaChusa has failed to show trial-level counsel's performance was deficient or that he was prejudiced. Therefore, we conclude the district court did not err in denying this claim.

Second, LaChusa argued trial-level counsel was ineffective for failing to adequately investigate LaChusa's mental health history and inform the court he may not be competent to enter a guilty plea. LaChusa's bare claim failed to allege what additional investigation counsel should have done or that LaChusa did not have the ability to consult with his attorney with a reasonable degree of rational understanding or did not understand the proceedings against him. *See Melchor-Gloria v. State*, 99 Nev. 174, 179-80, 660 P.2d 109, 113 (1983) (stating the test for competency). Further, LaChusa did not solicit any testimony or present any evidence regarding this claim at the evidentiary hearing. Therefore, we conclude the district court did not err in denying this claim. *See Rippo v. State*, 134 Nev. 411, 426, 423 P.3d 1084, 1100 (2018) (denying relief where claims were not

supported by sufficient factual allegations); *Molina v. State*, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004) (denying relief where the record did not demonstrate what a more adequate investigation would have uncovered). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Chief Judge, Second Judicial District Court  
Second Judicial District Court, Dept. 10  
David Kalo Neidert  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk