

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

NATASHA GALENN JACKSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82727-COA

FILED

MAY 18 2022

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

ORDER OF AFFIRMANCE

Natasha Galenn Jackson appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

Jackson argues the district court erred by denying her February 14, 2020, petition. Jackson filed her petition more than two years after entry of the judgment of conviction on November 13, 2017.¹ Thus, Jackson's petition was untimely filed. *See* NRS 34.726(1). Jackson's petition was procedurally barred absent a demonstration of good cause—cause for the delay and undue prejudice. *See id.*

Jackson claimed her trial-level counsel's failure to provide her with her case file caused the delay. This did not constitute cause for the delay. *See Hood v. State*, 111 Nev. 335, 338, 890 P.2d 797, 798 (1995).²

¹Jackson did not pursue a direct appeal.

²The district court failed to make any findings as to good cause but instead simply addressed Jackson's claims on the merits. We conclude this was error. *See State v. Eighth Judicial Dist. Court (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005) ("Application of the statutory procedural default rules to postconviction habeas petitions is mandatory."). We

Moreover, for the reasons discussed below, Jackson failed to demonstrate undue prejudice.

Jackson's underlying claims involved the 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—deficiency and prejudice—must be shown, *Strickland*, 466 U.S. at 687, 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 district 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, Jackson claimed her counsel was ineffective for failing to explain the terms and stipulations contained within her plea agreement,

nevertheless affirm the district court's denial of relief for the reasons stated herein. See *Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) (holding a correct result will not be reversed simply because it is based on the wrong reason).

including the waiver of her right to a direct appeal. At the evidentiary hearing on Jackson's petition, counsel testified that she reviewed the terms contained within the written plea agreement with Jackson. Moreover, at the plea canvass, Jackson had acknowledged that she reviewed the written plea agreement with counsel and that Jackson understood everything contained within the agreement. In light of the circumstances in this matter, Jackson did not demonstrate that counsel's performance fell below an objective standard of reasonableness or a reasonable probability that she would have refused to plead guilty and would have insisted on proceeding to trial had counsel provided additional explanation concerning the terms of the plea agreement. Therefore, we conclude Jackson would not have been entitled to relief on this claim.

Second, Jackson appeared to claim her counsel was ineffective for causing her to enter her guilty plea under duress. Jackson contended that counsel pressured her to enter a guilty plea so that she would not receive a sentence of life without the possibility of parole or the death penalty. Counsel's candid advice about the potential outcome of a trial and sentencing was not evidence of coercion. *See Dezzani v. Kern & Assocs., Ltd.*, 134 Nev. 61, 69, 412 P.3d 56, 62 (2018) (noting that one of the roles of an attorney is to provide candid advice to his or her client). In addition, Jackson acknowledged in the written plea agreement that she entered into the plea agreement voluntarily and did not act under duress or coercion. Jackson also asserted at the plea canvass that no one forced her to plead guilty and she acted voluntarily. Given the circumstances in this matter, she failed to demonstrate her counsel coerced her into pleading guilty or a reasonable probability she would have refused to plead guilty and would have insisted on proceeding to trial had counsel performed different actions

concerning entry of Jackson's plea. Therefore, we conclude Jackson would not have been entitled to relief on this claim.

Third, Jackson claimed her counsel was ineffective for failing to investigate the facts of her case and ensure that she was sentenced based upon accurate information regarding the crimes. Jackson contended that a victim did not provide an accurate statement concerning the attack and counsel should have been in a position to inform the sentencing court about that information.

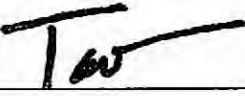
Before the grand jury, an eyewitness testified that he viewed Jackson and her codefendant commit the attack. The eyewitness's testimony corroborated the victim's version of events. In addition, the record demonstrated that Jackson confessed to participating in the robbery that resulted in the death of one victim, stabbed another victim with a screwdriver, and directed her codefendant to shoot at police officers. Moreover, in the written plea agreement, the parties stipulated that Jackson would be sentenced to terms totaling life in prison with the possibility of parole after 35 years. And the sentencing court ultimately imposed the stipulated sentence. In light of the circumstances of this matter, Jackson did not demonstrate a reasonable probability of a different outcome at the sentencing hearing had counsel performed additional investigation into the facts of the case and presented that information at the sentencing hearing. Therefore, we conclude Jackson would not have been entitled to relief on this claim.

Because Jackson failed to demonstrate that her underlying claims had merit, she failed to demonstrate undue prejudice sufficient to overcome the procedural time bar. *See Rippo v. State*, 134 Nev. 411, 425, 423 P.3d 1084, 1099, *amended on denial of reh'g*, 432 P.3d 167 (Nev. 2018)

("If a petitioner who seeks to excuse a procedural default based on ineffective assistance of counsel makes the showing of prejudice required by *Strickland*, [s]he also has met the actual prejudice showing required to excuse the procedural default."). Accordingly, we conclude that the district court did not err by denying the petition, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Tierra Danielle Jones, District Judge
Natasha Galenn Jackson
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk