

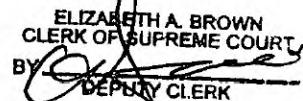
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CASIMIRO VENEGAS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 83964-COA

FILED

AUG 26 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Casimiro Venegas appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on March 18, 2019, and a supplemental petition filed on October 7, 2020. Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.

Venegas argues the district court erred by denying his claims of ineffective assistance of trial and appellate counsel raised in his supplemental petition without conducting an evidentiary hearing. 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*); see also *Kirksey v. State*, 112 Nev. 980, 998, 923 P.2d 1102, 1113-14 (1996). Both components of the inquiry must be shown. *Strickland*, 466 U.S. at 687. 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). To warrant an evidentiary hearing, a 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).

Venegas claimed that his trial counsel was ineffective for failing to investigate and interview witnesses and for failing to introduce their testimony at trial. Venegas' bare claim did not allege what the results of any such investigation would have been, who the witnesses were, or what their testimony would have been. Therefore, Venegas failed to demonstrate that counsel's performance fell below an objective standard of reasonableness or a reasonable probability of a different outcome absent counsel's alleged errors. See *Molina v. State*, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004) (providing that a petitioner claiming counsel did not conduct an adequate investigation must allege what the results of a better investigation would have been and how it would have affected the outcome of the proceedings). Accordingly, we conclude the district court did not err by denying this claim without conducting an evidentiary hearing.

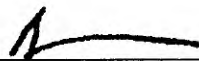
Venegas also claimed that his appellate counsel was ineffective for failing to fully investigate and prosecute his appeal. Venegas' bare claim did not allege what appellate counsel should have investigated or what arguments appellate counsel should have raised on appeal. Therefore, Venegas failed to demonstrate that counsel's performance fell below an objective standard of reasonableness or that any omitted issues would have

had a reasonable probability of success on appeal. 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. Linda Marie Bell
The Gersten Law Firm PLLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk