

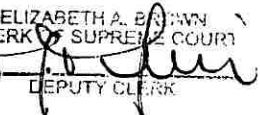
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SUSAN FRANCES HINTON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 84585-COA

FILED

OCT 21 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Susan Frances Hinton appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus filed on August 10, 2021, and a supplement filed on November 30, 2021. Ninth Judicial District Court, Douglas County; Thomas W. Gregory, Judge.

Hinton argues that the district court erred by denying her claims of ineffective assistance of counsel without conducting an evidentiary hearing. 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).

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). 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 her to relief. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

Hinton argues that her counsel was ineffective for failing to communicate with her and for failing to fully explain the terms of the guilty plea agreement. In the petition, Hinton did not specify what counsel failed to communicate or what terms of the guilty plea agreement counsel failed to explain. Therefore, Hinton did not support her claims with specific factual allegations that were not belied by the record and, if true, would have entitled her to relief. To the extent Hinton attempts to add facts on appeal to support these claims, we decline to consider these facts for the first time on appeal. *See McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999). Accordingly, we conclude the district court did not err by denying these claims without conducting an evidentiary hearing.

Hinton also argues that counsel failed to file a direct appeal after she requested counsel to do so and that the sentencing court failed to impose the sentence contemplated by the guilty plea agreement after indicating its intent to follow the agreement. Hinton did not present these claims to the district court below; therefore, we also decline to consider these claims for the first time on appeal. *See id.* Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Thomas W. Gregory, District Judge
Susan Frances Hinton
Attorney General/Carson City
Douglas County District Attorney/Minden
Douglas County Clerk