

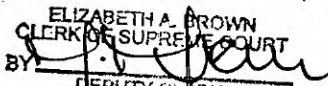
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY DYANE STEWART,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 86088-COA

FILED

AUG 07 2023

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

*ORDER OF AFFIRMANCE*

Anthony Dyane Stewart appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on July 18, 2022, and supplemental pleading filed on September 28, 2022.<sup>1</sup> Eighth Judicial District Court, Clark County; Jennifer L. Schwartz, Judge.

Stewart contends the district court erred by denying his claim 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

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<sup>1</sup>Stewart filed a motion to modify and/or correct illegal sentence in district court case no. C-21-361099-1, which the district court construed as a postconviction petition for a writ of habeas corpus pursuant to *Harris v. State*, 130 Nev. 435, 448-49, 329 P.3d 619, 628 (2014). Because the district court construed Stewart's motion as a postconviction habeas petition, we direct the clerk of the district court to file the motion in Stewart's related postconviction case: district court case number A-22-859062-W.

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 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).

Stewart claimed his trial-level counsel was ineffective for misinforming and misleading him regarding the sentence structure of the guilty plea agreement. Stewart alleged that counsel told him the plea deal was for a sentencing range of two to five years. During his plea canvass, Stewart told the district court that counsel read the guilty plea agreement to him. Stewart also told the court that (1) he understood the range of punishment for the offense was 2 to 20 years in prison, (2) he understood the sentencing decision was up to the court, (3) he understood that no one was in a position to promise him leniency, and (4) no one made him any promises other than what was contained in the plea agreement. The guilty plea agreement provided the same range of punishment discussed during the plea canvass and that no one promised or guaranteed Stewart any particular sentence.

Because Stewart indicated he understood the possible sentencing range and that no one had promised him a particular sentence, Stewart failed to demonstrate that counsel was deficient or there was a reasonable probability he would not have pleaded guilty and would have

insisted on going to trial but for counsel's alleged error. Therefore, we conclude the district court did not err by denying this claim.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Jennifer L. Schwartz, District Judge  
Anthony Dyane Stewart  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk