


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DARRELL GLENN LEE, SR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 86338-COA

FILED

SEP 15 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
COURT CLERK

ORDER OF AFFIRMANCE

Darrell Glenn Lee, Sr., appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on December 27, 2022. Eighth Judicial District Court, Clark County; Joseph Hardy, Jr., Judge.

Lee contends the district court erred by denying his claims of ineffective assistance of post-plea counsel.<sup>1</sup> 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,

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<sup>1</sup>Lee pleaded guilty pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970). The attorney who represented Lee during the negotiations and entry of his plea was replaced by a different attorney after the plea. Lee's claims allege the ineffective assistance of post-plea counsel, who represented Lee through sentencing.

687-88 (1984); *Warden v. Lyons*, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984) (adopting the test in *Strickland*). 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).

First, Lee appeared to claim that his post-plea counsel was ineffective for missing hearings, failing to communicate with Lee, ignoring Lee during court proceedings, and saying he was going to file a motion to withdraw Lee's plea but then later representing in court that there was no legal cause to do so. Lee's bare claims failed to allege specific facts demonstrating a reasonable probability of a different outcome but for counsel's alleged errors. Therefore, we conclude the district court did not err by denying these claims.

Second, Lee appeared to claim that the district court was grossly negligent by allowing post-plea counsel to engage in the conduct described above. This claim was not properly raised in Lee's postconviction petition for a writ of habeas corpus because any claims alleging district court error could have been raised on direct appeal from the entry of his judgment of conviction. See *Franklin v. State*, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) (“[C]laims that are appropriate for a direct appeal must be pursued on direct appeal, or they will be considered waived in subsequent proceedings.”), *overruled on other grounds by Thomas v. State*, 115 Nev. 148,

150, 979 P.2d 222, 223-24 (1999). Accordingly, we conclude the district court did not err by denying this claim.

Lee also appears to raise several new claims on appeal. We decline to consider them in the first instance. *See McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999). Therefore, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Joseph Hardy, Jr., District Judge  
Darrell Glenn Lee, Sr.  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk