

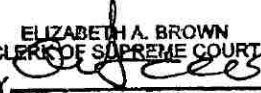
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BOBBY RAY WRIGHT,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 86717-COA

FILED

FEB 28 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER OF AFFIRMANCE

Bobby Ray Wright appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on November 16, 2022. Eighth Judicial District Court, Clark County; Joseph Hardy, Jr., Judge.

In his petition, Wright raised claims alleging the ineffective assistance of 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 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). 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. *See Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

First, Wright claimed counsel failed to adequately communicate with him resulting in a lack of understanding. Wright's bare claim failed to allege specific facts demonstrating what additional information counsel should have conveyed or how any lack of communication affected his decision to plead guilty. Accordingly, Wright failed to demonstrate counsel's performance was deficient or a reasonable probability he would not have pleaded guilty and would have insisted on proceeding to trial but for counsel's alleged errors. Therefore, we conclude the district court did not err by denying this claim.

Second, Wright claimed that counsel failed to prepare for trial. Wright's bare claim failed to allege specific facts demonstrating what trial preparation counsel should have done or how a lack of trial preparation affected his decision to plead guilty. Accordingly, Wright failed to demonstrate counsel's performance was deficient or a reasonable probability he would not have pleaded guilty and would have insisted on proceeding to trial but for counsel's alleged error. Therefore, we conclude the district court did not err by denying this claim.

Third, Wright claimed that counsel entered Wright's plea under coercion and without Wright's consent. Wright's bare claims failed to allege specific facts demonstrating coercion or a lack of consent. Accordingly,

Wright failed to demonstrate counsel's performance was deficient or a reasonable probability he would not have pleaded guilty and would have insisted on proceeding to trial but for counsel's alleged errors. Therefore, we conclude the district court did not err by denying this claim.

Finally, Wright claimed that counsel failed to explain what Wright was agreeing to. Wright's bare claim failed to allege specific facts demonstrating what counsel failed to explain. Accordingly, Wright failed to demonstrate counsel's performance was deficient or a reasonable probability he would not have pleaded guilty and would have insisted on proceeding to trial but for counsel's alleged error. Therefore, we conclude the district court did not err by denying this claim.

Wright also alleged that his plea was not entered knowingly and voluntarily because his "stunned" state of mind and lack of "concentration of my mental power" prevented him from understanding the plea canvass. "This court will not invalidate a plea as long as the totality of the circumstances, as shown by the record, demonstrates that the plea was knowingly and voluntarily made and that the defendant understood the nature of the offense and the consequences of the plea." *State v. Freese*, 116 Nev. 1097, 1105, 13 P.3d 442, 448 (2000). A guilty plea is presumptively valid, and a petitioner carries the burden of establishing the plea was not entered knowingly and intelligently. *Hubbard v. State*, 110 Nev. 671, 675, 877 P.2d 519, 521 (1994).

At the plea canvass, Wright answered the questions of the district court appropriately and appeared at one point to voluntarily move his face mask in an attempt to better be heard by the district court. Wright


indicated he was not under the influence of any drugs or alcohol that would impact his ability to understand the proceedings. He indicated that he understood everything in the plea agreement and had authorized someone to sign it on his behalf. When asked, he indicated he understood that the court would accept the signature as if Wright had signed it himself. Wright agreed that no one was forcing him to take the plea and that no promises were made to him regarding his plea other than what was in the guilty plea agreement. Wright stated he understood the range of punishment he faced and that the offense was eligible for probation. He also indicated he understood there was a forfeiture agreement reached as part of the plea agreement and that the same person who had signed his plea agreement would sign the forfeiture agreement on his behalf.


Wright failed to allege specific facts demonstrating that his answers or understanding of the plea canvass were impacted by his mental state. Having considered the totality of the circumstances, we conclude Wright did not overcome the presumption that his guilty plea was valid. Therefore, we conclude the district court did not err by denying this claim.

Finally, Wright alleged that insufficient evidence supported his arrest and conviction. Wright failed to allege specific facts demonstrating how the state of the evidence against him affected the validity of his guilty plea, nor does the claim allege his plea was entered without the effective assistance of counsel. This claim was thus outside the scope of claims permissible in a postconviction petition for a writ of habeas corpus arising from a guilty plea. See NRS 34.810(1)(a); *Gonzales v. State*, 137 Nev. 398,

403, 492 P.3d 556, 562 (2021). Therefore, we conclude the district court did not err by denying this claim.<sup>1</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Joseph Hardy, Jr., District Judge  
Bobby Ray Wright  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>1</sup>Wright appears to make additional arguments related to this claim on appeal. Because he did not make these arguments below, we decline to consider them for the first time on appeal. *See McNelton v. State*, 115 Nev. 396, 415-16, 990 P.2d 1263, 1275-76 (1999).