


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JUAN LIZARRAGA-SALAZAR,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 89086-COA

FILED

JUN 03 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Juan Lizarraga-Salazar appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on April 27, 2023, and supplemental pleadings. Eighth Judicial District Court, Clark County; Eric Johnson, Judge.

Lizarraga-Salazar argues the district court erred by denying his 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*). 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 the petitioner to relief. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

Lizarraga-Salazar claimed counsel was ineffective for failing to present character letters from friends and family in mitigation at sentencing. Lizarraga-Salazar alleged the letters would have shown that he was a humble, hardworking person who deserved a second chance and that he was the breadwinner, generous, and well-loved despite his crimes. Lizarraga-Salazar failed to demonstrate prejudice. The district court—the same judge that imposed Lizarraga-Salazar’s two concurrent 8-to-20-year prison sentences—concluded there was not a reasonable probability of a more favorable outcome at sentencing had counsel presented the letters from friends and family. In support of its conclusion, the district court found that its sentencing decision was “largely dictated” by Lizarraga-Salazar’s “deeply concern[ing]” allocution which “lack[ed] . . . recognition of the seriousness of the crime committed.” Lizarraga-Salazar does not challenge these findings on appeal, and we conclude they are not clearly erroneous.

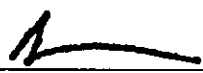
Further, the district court’s sentencing decision appeared to be based on Lizarraga-Salazar’s conduct in committing the crimes. Lizarraga-Salazar pleaded guilty to one count of attempted sexual assault and one count of attempted lewdness with a child under the age of 14. The presentence investigation report stated the victim recounted during a forensic interview that Lizarraga-Salazar, who was the victim’s grandmother’s partner, molested her multiple times as a child. The victim explained that the incidents occurred when she was between the ages of 4 and 15 years old. During sentencing, the State argued that concurrent 8-to-20-year prison sentences were warranted based on the facts of the case.

But the [8] to 20 would be appropriate given the fact of the age of the victim in this case and then the

amount of times that it occurred. I'm not going to go through the offense synopsis as I know that this Court reads it. But these things happened numerous times when the victim was very young for more than a decade. And so I think the [8] to 20 on each count would be appropriate.

Lizarraga-Salazar did not challenge these arguments or facts during sentencing. And in imposing Lizarraga-Salazar's sentence, the district court stated it was "looking at the underlying nature of the crime" and described Lizarraga-Salazar's conduct as "extreme" and "despicable." In light of these circumstances, Lizarraga-Salazar failed to demonstrate a reasonable probability of a different outcome at sentencing had counsel presented the letters as mitigating evidence. Therefore, we conclude the district court did not err by denying Lizarraga-Salazar's petition without conducting an evidentiary hearing, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Eric Johnson, District Judge
Michael Lasher LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk