


IN THE SUPREME COURT OF THE STATE OF NEVADA

PAUL CHIGAL,
Appellant,
vs.
JACK PALMER, WARDEN,
Respondent.

No. 57349

FILED

JUL 26 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

First, appellant argues that the district court erred by denying his claim that his guilty plea was not knowingly and voluntarily entered because English is not his native language and he did not have the assistance of an interpreter. A guilty plea is presumptively valid, and a petitioner carries the burden of establishing that the plea was not entered knowingly and intelligently. Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986); see also Hubbard v. State, 110 Nev. 671, 675, 877 P.2d 519, 521 (1994). In determining the validity of a guilty plea, this court looks to the totality of the circumstances. State v. Freese, 116 Nev. 1097, 1105, 13 P.3d 442, 448 (2000); Bryant, 102 Nev. at 271, 721 P.2d at 367.

In his petition, appellant appeared to contend that he pleaded guilty under the misunderstanding that he would be sentenced to 20 years in prison, rather than life with the possibility of parole after 20 years. The

district court found that the record repelled appellant's claim that he did not understand his potential sentence, as he expressly denied having difficulty with the English language during the plea canvass and was able to explain the potential life sentence in his own words. During the plea canvass, appellant affirmed that he understood the plea negotiations, and he answered all of the district court's questions appropriately. The district court inquired about appellant's accent, and appellant explained that he was born in Guam but denied having any difficulty reading English.¹ The district court asked him if he knew the maximum penalty for his offense, and appellant correctly answered, "Life." The district court also asked if he knew how long he would have to serve in prison before he could be considered for parole, and appellant correctly answered, "20 years." We conclude that, under the totality of the circumstances,² the district court did not err in determining that appellant's plea was knowingly and

¹Appellant also asserted that his native language was "Guam from Guam" and he learned English while attending school in Guam. In contrast to his assertions at the plea canvass, appellant now claims that he grew up on the island of Yap near Guam, that he spoke the Yap language and did not understand English very well during his criminal proceedings, and that his answers at the plea canvass were prompted by his counsel. Appellant fails to demonstrate that the district court erred in determining that these factual allegations were belied by the record.

²We note that appellant failed to include the written guilty plea agreement in his appendix, so our review of the totality of the circumstances is limited to the transcript of the oral plea canvass. See Thomas v. State, 120 Nev. 37, 43 & n.4, 83 P.3d 818, 822 & n.4 (2004).

voluntarily entered. See Freese, 116 Nev. at 1105, 13 P.3d at 448; see also State v. Langarica, 107 Nev. 932, 934-35, 822 P.2d 1110, 1112 (1991).

Second, appellant argues that his guilty plea was coerced because the State amended the information to include additional charges after appellant indicated that he wished to proceed to trial. This claim differs from his claim of coercion in his district court petition, which alleged only that the State “bullied” him into pleading guilty because “others in [his] same circumstance were given a less harsh prison term or they got time to do but not life.” Because appellant’s claim in his petition was bereft of any explanation as to how he was coerced into pleading guilty, the district court did not err in denying the claim. To the extent that appellant argues on appeal that the State amended the information to include additional charges in order to coerce him to plead guilty, this claim was not raised below and need not be considered on appeal. See Davis v. State, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991), overruled on other grounds by Means v. State, 120 Nev. 1001, 103 P.3d 25 (2004).

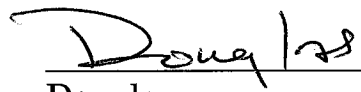
Third, appellant argues that the district court erred by denying his claim that his counsel was ineffective for failing to obtain an interpreter for him and explain the consequences of his plea. In his petition, appellant did not specifically allege that his counsel was ineffective for failing to obtain an interpreter for him, nor did appellant provide any specific factual allegations indicating that counsel should have known that he needed an interpreter. See Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984) (holding that “bare” or “naked” claims are insufficient to grant relief). Furthermore, as discussed above,


his answers at the plea canvass belied his claim that he was unable to understand the proceedings without the assistance of an interpreter. As to his claim that counsel failed to inform him of the sentence that he would receive, this is also belied by the record, as counsel stated during the plea canvass that appellant's sentence would be life in prison with parole eligibility after 20 years. Therefore, the district court did not err in denying this claim.

Finally, appellant argues that the district court erred by hearing oral arguments on the State's motion to dismiss his petition, rather than conducting an evidentiary hearing as provided by the habeas statutes. A petitioner is entitled to an evidentiary hearing only if he supports his claims with specific factual allegations that are not belied by the record and, if true, would entitle him to relief. *Id.* at 502-03, 686 P.2d at 225. Because appellant's claims were belied by the record or were not supported with specific factual allegations, the district court was not required to hold an evidentiary hearing. To the extent that appellant argues that the district court erred by hearing oral arguments on the State's motion to dismiss, the statutes governing habeas proceedings do not prohibit oral arguments, and he has failed to provide authority to support this claim. See *Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) ("It is appellant's responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this

court.”). For the foregoing reasons, we conclude that the district court did not err in denying the petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.³


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Connie J. Steinheimer, District Judge
Janet S. Bessemer
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

³Appellant has filed a motion to strike the factual matter contained in lines 12-20 on page 3 of the State’s answering brief because those facts were not presented to the district court. We grant the motion and have considered only those facts and arguments presented to the district court.