

IN THE SUPREME COURT OF THE STATE OF NEVADA

TACUMA JAWANZA MWANZA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 62924

FILED

JAN 21 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
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. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

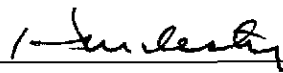
On appeal from the partial denial of his petition filed on November 3, 2011, and his supplemental petition filed on July 17, 2012, appellant argues that the district court erred in denying his claim of ineffective assistance of trial counsel. To prove ineffective assistance of counsel sufficient to invalidate a judgment of conviction based on a guilty plea, a petitioner must demonstrate that his counsel's performance was deficient in that it fell below an objective standard of reasonableness, and resulting prejudice such that there is a reasonable probability that, but for counsel's errors, 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, 988, 923 P.2d 1102, 1107 (1996). Both


components of the inquiry must be shown. *Strickland v. Washington*, 466 U.S. 668, 697 (1984).

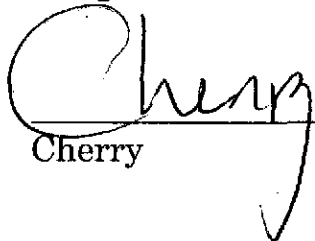
Appellant argues that counsel failed to investigate the vague, inconsistent descriptions of him and the suspect and to subsequently file a motion to suppress the firearm based on an invalid stop. Appellant failed to demonstrate that his trial counsel's performance was deficient or that he was prejudiced. Officers responded to a 9-1-1 call regarding a suspect who pulled a gun from his waistband and who was last seen at a specific location. Both officers reported that, upon arriving at that location, they observed a subject generally matching the description of the suspect and attempted to approach appellant, who failed to obey their verbal commands. The stop was properly supported by reasonable suspicion that appellant was engaged in criminal activity. See NRS 171.123(1); see also *Terry v. Ohio*, 392 U.S. 1, 27 (1968). Appellant failed to demonstrate that an investigation of the stop and a motion to suppress the firearm would have been meritorious and altered his decision to plead guilty. See *Kirksey*, 112 Nev. at 990, 923 P.2d at 1109 (holding that when a claim of ineffective assistance is based on counsel's failure to file a motion to suppress, "the prejudice prong must be established by a showing that the claim was meritorious and that there was a reasonable likelihood that the exclusion of the evidence would have changed the result of a trial"); see also *Ford v. State*, 105 Nev. 850, 784 P.2d 951 (1989) (holding that a claim

of ineffective assistance alleging a failure to properly investigate will fail where the evidence or testimony sought does not exonerate or exculpate the defendant). Therefore, the district court did not err in denying appellant's claim, and we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Michael Villani, District Judge
Langford McLetchie LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk