

IN THE SUPREME COURT OF THE STATE OF NEVADA

IRANZI OLIVER BAHATI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 63261

FILED

MAR 12 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY A. Malone
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant Iranzi Oliver Bahati's post-conviction motion to withdraw his guilty plea. Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

Bahati contends that the district court abused its discretion by denying his motion. He claims that defense counsel was ineffective for failing to inform him that his conviction *would* result in his deportation, instead of merely advising him that his conviction *may* have deportation consequences and that he should consult with an immigration attorney. Bahati also suggests that he did not fully understand the consequences of his plea because of a language barrier.

The record indicates that Bahati was provided with a court interpreter, he acknowledged that he understood the guilty plea agreement and that it was read to him by an interpreter, and he gave his statement of allocution in English. The district court heard argument on Bahati's motion, found that Bahati had failed to demonstrate prejudice as a result of counsel's representation, and denied the motion in a summary order.

“A guilty plea entered on advice of counsel may be rendered invalid by showing a manifest injustice through ineffective assistance of counsel. Manifest injustice may also be demonstrated by a failure to adequately inform a defendant of the consequences of his plea.” *Rubio v. State*, 124 Nev. 1032, 1039, 194 P.3d 1224, 1228-29 (2008) (footnote and internal quotation marks omitted). We review a district court’s manifest injustice determination for abuse of discretion but review claims of ineffective assistance of counsel de novo. *Id.* at 1039, 194 P.3d at 1229.

To state a claim of ineffective assistance of counsel sufficient to invalidate a guilty plea, a defendant must demonstrate that counsel's performance was deficient in that it fell below an objective standard of reasonableness, and resulted in prejudice such that there is a reasonable probability that, but for counsel’s errors, the defendant would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 58-59 (1985); *Strickland v. Washington*, 466 U.S. 668, 687 (1984); *Kirksey v. State*, 112 Nev. 980, 987-88, 923 P.2d 1102, 1107 (1996). We need not address both prongs of the ineffective-assistance inquiry if the defendant makes an insufficient showing on either one. *Strickland*, 466 U.S. at 697.

The prejudice prong has both a subjective and an objective component: to satisfy the subjective component, the defendant must assert that “he would have pleaded not guilty and insisted on going to trial,” see *Hill*, 474 U.S. at 60, and, to satisfy the objective component, the defendant must demonstrate that his “decision to reject the plea bargain would have been rational under the circumstances,” *Padilla v. Kentucky*, 559 U.S. 356, 372 (2010). See also *State v. Huebler*, 128 Nev. ___, ___, 275 P.3d 91, 99 (2012).

Prior to entering his guilty plea, Bahati faced four counts of sexual assault, ten counts of lewdness with a child under the age of fourteen, eight counts of sexual assault with a minor under fourteen years of age, and one count each of battery with the intent to commit a crime, battery to commit sexual assault, battery with the intent to commit sexual assault with a deadly weapon, and open or gross lewdness. The State had substantial evidence of these crimes, including the results of a Sexual Assault Nurse Examiner (SANE) examination and Bahati's own admissions. And, had Bahati been convicted of these crimes, he would have faced the possibility of 22 sentences of life imprisonment. Given these circumstances, we conclude that Bahati has not demonstrated that a rational defendant in his position would have pleaded not guilty and insisted on going to trial.

We conclude that Bahati has not demonstrated that he was prejudiced by counsel's representation or that the district court abused its discretion by determining there was no manifest injustice. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

cc: Hon. Jessie Elizabeth Walsh, District Judge
Turco & Draskovich
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk