

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAHUART I. SAHAGUN-ALATORRE  
A/K/A JAHUART ISRAEL SAHAGUN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 63595

FILED

JAN 16 2014

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *Angela*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.<sup>1</sup> Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

In his petition, filed on April 2, 2013, appellant raised several claims of ineffective assistance of trial counsel. To prove ineffective assistance of counsel, a petitioner must demonstrate that 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, the outcome of the proceedings would have been different. *Strickland v. Washington*, 466 U.S. 668, 687-

---

<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. *See Luckett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

88 (1984); *Warden v. Lyons*, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984) (adopting the test in *Strickland*). To prove prejudice to invalidate the decision to enter a guilty plea, a petitioner must demonstrate 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*, 466 U.S. at 697. Further, claims may not be bare but rather must be supported by specific factual allegations that, if true and not repelled by the record, would entitle him to relief. *Hargrove v. State*, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984).

First, appellant claimed that counsel Frank Kocka was ineffective for failing to investigate or to file certain pretrial motions on appellant's behalf. Appellant's bare claims failed to demonstrate deficiency or prejudice. Appellant did not state what a better investigation would have revealed or how it would have affected his guilty plea. *Molina v. State*, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004). Further, although appellant named the motions he wanted counsel to file, he did not provide any information as to the basis of the motions or their merit. *Cf. Kirksey*, 112 Nev. at 990, 923 P.2d at 1109. We therefore conclude that the district court did not err in denying these claims.

Second, appellant claimed that counsel Donald Green was ineffective for failing to file a motion to dismiss counts 4, 8, 12, and 16 (trafficking in controlled substances) for lack of evidence. Appellant failed

to demonstrate deficiency or prejudice. Appellant pleaded guilty to those counts in exchange for the dismissal of 11 other counts also related to trafficking or conspiracy to traffic in controlled substances, and because he did not challenge the sufficiency of the evidence as it related to the dismissed counts, he failed to demonstrate that, but for the alleged error, he would not have pleaded guilty and would have insisted on going to trial. We therefore conclude that the district court did not err in denying this claim.

Third, appellant claimed that Mr. Green was ineffective for pressuring or coercing appellant into signing the guilty plea agreement without appellant fully understanding it. Appellant's bare claim failed to demonstrate deficiency or prejudice as he failed to state how counsel coerced him or what he did not understand about the agreement. Moreover, appellant acknowledged in his guilty plea agreement and during his plea colloquy that he was entering his plea freely and voluntarily, that he had discussed it thoroughly with his attorney, and that his attorney had answered any questions he had about his plea agreement. We therefore conclude that the district court did not err in denying this claim.

Fourth, appellant claimed that Mr. Green was ineffective for failing to present mitigation evidence at sentencing. Appellant failed to demonstrate deficiency or prejudice. Appellant's claim that people wanted to speak on his behalf was a bare claim as he did not state what the people would have said or how it would have affected the outcome of the

sentencing hearing. His claims that counsel made no positive representations was belied by the record as counsel noted his good family support and lack of a criminal history, and the presentence investigation report noted that he owned a business. Appellant did not state what other representations counsel should have made. We therefore conclude that the district court did not err in denying these claims.

Appellant also claimed that he received ineffective assistance from appellate counsel. To prove ineffective assistance of appellate counsel, a petitioner must demonstrate that counsel's performance was deficient in that it fell below an objective standard of reasonableness, and resulting prejudice such that the omitted issue would have a reasonable probability of success on appeal. *Kirksey*, 112 Nev. at 998, 923 P.2d at 1114. Appellate counsel is not required to raise every non-frivolous issue on appeal. *Jones v. Barnes*, 463 U.S. 745, 751 (1983). Rather, appellate counsel will be most effective when every conceivable issue is not raised on appeal. *Ford v. State*, 105 Nev. 850, 853, 784 P.2d 951, 953 (1989).

Appellant claimed that counsel was ineffective for failing to inform, advise, or communicate with appellant during the appeals process and that counsel failed to raise issues appellant wanted raised. Appellant's bare claims failed to demonstrate deficiency or prejudice. Appellant did not identify the issues he wanted raised on appeal; state what information would have been exchanged had counsel informed, advised, or communicated with him; or demonstrate a reasonable probability of a different outcome on appeal had counsel raised other

issues or engaged in better communication. We therefore conclude that the district court did not err in denying these claims.

For the foregoing reasons, we conclude that appellant's claims lack merit, and we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

Hardesty, J.  
Hardesty

Douglas, J.  
Douglas

Cherry, J.  
Cherry

cc: Hon. Michelle Leavitt, District Judge  
Jahuart I. Sahagun-Alatorre  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

---

<sup>2</sup>We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.