

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VANCE EDWARD HARDIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70175

FILED

NOV 18 2016

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

Appellant Vance Edward Hardin argues the district court erred in denying his claims of ineffective assistance of counsel raised in his October 6, 2015, petition. 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, 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). To warrant an evidentiary hearing, a petitioner must raise claims that are supported by specific allegations that are not belied by the record, and if true, would entitle him to relief. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

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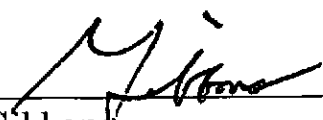
First, Hardin argues his counsel was ineffective for pressuring him to enter a guilty plea and for failing to discuss possible defenses or other legal remedies. Hardin fails to demonstrate his counsel's performance was deficient or resulting prejudice. In the written plea agreement, Hardin acknowledged he accepted the plea bargain voluntarily and did not act under duress or coercion. At the plea canvass, Hardin asserted that no one had forced him to enter his guilty plea and he entered a guilty plea of his own free will. Hardin further acknowledged in the written plea agreement he had discussed "any possible defenses, defense strategies, and circumstances which might be in my favor" with his counsel. In addition, at the plea canvass, Hardin asserted he had discussed the agreement and this case with his attorney and she had answered all of his questions. Hardin fails to demonstrate a reasonable probability he would have refused to plead guilty and would have insisted on going to trial had counsel engaged in further discussion with Hardin regarding these issues. Therefore, the district court did not err in denying this claim without conducting an evidentiary hearing.


Second, Hardin argues his counsel was ineffective for conducting an inadequate investigation. Hardin asserts counsel could have investigated whether Hardin actually had contact with minors or whether the pornographic material discovered in Hardin's home actually belonged to him. Hardin fails to demonstrate his counsel's performance was deficient or resulting prejudice. Hardin did not demonstrate investigation into these issues would have revealed favorable testimony or evidence. *See Molina v. State*, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004) (a petitioner claiming counsel did not conduct an adequate investigation must specify what a more thorough investigation would have uncovered).

In addition, Hardin admitted he had contact with a child and the pornographic material belonged to him. Accordingly, Hardin does not demonstrate a reasonable probability of a different outcome had counsel conducted an investigation into these issues. Therefore, the district court did not err in denying this claim without conducting an evidentiary hearing.

Third, Hardin argues his counsel was ineffective for failing to discover Hardin was improperly charged with a violation of lifetime supervision in a separate criminal matter. However, this claim was not appropriately raised in the instant petition. Challenges to a separate judgment of conviction must be raised in a postconviction petition for a writ of habeas corpus referencing that district court case.¹ See NRS 34.720(1); NRS 34.724(1); NRS 34.738(1). Therefore, the district court did not err in denying this claim without conducting an evidentiary hearing.

Having concluded Hardin is not entitled to relief, we
ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

¹We express no opinion as to whether Hardin could meet the procedural requirements of NRS chapter 34 for any subsequent petition filed in the separate case.

cc: Hon. Douglas Smith, District Judge
Gregory & Waldo
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk