

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTOPHER M. YOUNG,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73567

FILED

JUN 13 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Christopher M. Young appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

In his February 28, 2017, petition, Young claimed that his counsel was ineffective. To prove ineffective assistance of counsel sufficient to invalidate a judgment of conviction based on a guilty plea, a petitioner must demonstrate 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).

Young claimed his counsel was ineffective for failing to explain to him that he would be sentenced to serve the deadly weapon enhancement

¹This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

consecutive to the sentence for the primary offense of attempted murder. Young failed to demonstrate his counsel's performance was deficient or resulting prejudice.

In the written plea agreement, which Young acknowledged having read and understood, the parties stipulated to a sentence of two to five years for the primary offense of attempted murder plus a consecutive term of one to five years for the deadly weapon enhancement. At the plea canvass, Young acknowledged he understood that the parties had agreed to that stipulation, including that he would be sentenced to serve a consecutive term for the deadly weapon enhancement. In the written plea agreement, Young asserted he had discussed the consequences he faced with his counsel and that his counsel answered all of his questions regarding the agreement. Given this record, we conclude Young failed to demonstrate his counsel acted in an objectively unreasonable manner with respect to the explanation of Young's potential sentence or a reasonable probability he would have refused to plead guilty and would have insisted on proceeding to trial had counsel undertaken different actions in this regard. Therefore, we conclude the district court did not err by denying this claim.²

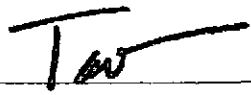
Next, Young claimed the State committed prosecutorial misconduct and the sentencing court improperly sentenced him to serve a consecutive term for the deadly weapon enhancement. These claims were not based on an allegation that Young's plea was involuntarily or unknowingly entered or that his plea was entered without the effective

²To the extent Young raised a separate claim asserting he should be permitted to withdraw his guilty plea because it was unknowingly entered due to his confusion regarding the sentence for the deadly weapon enhancement, Young failed to demonstrate withdrawal of his plea was necessary to correct a manifest injustice. *See* NRS 176.165.

assistance of counsel and, therefore, were not permissible in a postconviction petition for a writ of habeas corpus stemming from a guilty plea. See NRS 34.810(1)(a). Therefore, the district court did not err by denying relief for this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Douglas Smith, District Judge
Christopher M. Young
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk