

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRYAN ALEXANDER HARRISON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 73304

**FILED**

JUN 13 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Bryan Alexander Harrison appeals from a district court order dismissing a postconviction petition for a writ of habeas corpus filed on March 13, 2017.<sup>1</sup> Ninth Judicial District Court, Douglas County; Thomas W. Gregory, Judge.

In his petition, Harrison claimed he received ineffective assistance of counsel. To establish ineffective assistance of counsel, a petitioner who has been convicted pursuant to a guilty plea must demonstrate counsel's performance was deficient because it fell below an objective standard of reasonableness, and resulting prejudice in that there is a reasonable probability, but for counsel's errors, the petitioner would not

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<sup>1</sup>This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

have pleaded guilty and would have insisted on going to trial. *Kirksey v. State*, 112 Nev. 980, 987-88, 923 P.2d 1102, 1107 (1996).

The petitioner must demonstrate both components of the ineffective-assistance inquiry—deficiency and prejudice. *Strickland v. Washington*, 466 U.S. 668, 697 (1984). We give deference to the district court's factual findings—including credibility determinations—if supported by substantial evidence and not clearly erroneous but review the court's application of the law to those facts de novo. *Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005); *Little v. Warden*, 117 Nev. 845, 854, 34 P.3d 540, 546 (2001).

Harrison claimed the sheriff's deputies did not read him his *Miranda*<sup>2</sup> rights upon his arrest and defense counsels' failure to litigate this issue resulted in prejudice. The district court found Harrison's claim was conclusory, did not establish a constitutional violation, and did not specify how he was prejudiced. The district court's factual findings are supported by the record and are not clearly wrong.

We conclude Harrison failed to demonstrate defense counsel were ineffective, see *Means v. State*, 120 Nev. 1001, 1012-13, 103 P.3d 25, 33 (2004) (petitioner bears the burden of proving ineffective assistance), and the district court did not err by dismissing his postconviction habeas


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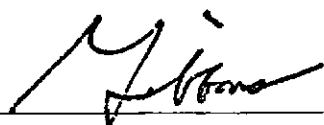
<sup>2</sup>*Miranda v. Arizona*, 384 U.S. 436 (1966).

petition without appointing counsel or conducting an evidentiary hearing, see NRS 34.750(1); NRS 34.770(2); *Renteria-Novoa v. State*, 133 Nev. \_\_\_, \_\_\_, 391 P.3d 760, 760-61 (2017); *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>3</sup>

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

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<sup>3</sup>To the extent Harrison claims in his informal brief that the State improperly breached his sealed juvenile record, his due process rights were violated as a result of corruption and racial bias, and his sentence constitutes cruel and unusual punishment, we decline to address these claims because they were not raised in his habeas petition or considered by the district court in the first instance. See *Davis v. State*, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991), *overruled on other grounds by Means*, 120 Nev. 1001, 103 P.3d 25.

We deny Harrison's motion for an extension of time to file a reply brief.

cc: Hon. Thomas W. Gregory, District Judge  
Bryan Alexander Harrison  
Attorney General/Carson City  
Douglas County District Attorney/Minden  
Douglas County Clerk