

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SCOTT RODNEY CASTEEL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 74137-COA

**FILED**

NOV 06 2018

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

*ORDER OF AFFIRMANCE*

Scott Rodney Casteel appeals from an order of the district court denying a postconviction petition filed on July 8, 2010, and a supplemental petition filed on December 23, 2016. Second Judicial District Court, Washoe County; Scott N. Freeman, Judge.

Casteel argues the district court erred by denying his claim his plea was not entered knowingly, voluntarily, and intelligently because the State withheld *Brady*<sup>1</sup> material.<sup>2</sup> Below, Casteel claimed the State withheld information that a witness did not show up for the preliminary hearing and that the prosecutor wrote that the victim was clean “for once” when he appeared for the preliminary hearing.

A petitioner may challenge the validity of his guilty plea based on a *Brady* violation. *State v. Huebler*, 128 Nev. 192, 200, 275 P.3d 91, 96-97 (2012). To prove a *Brady* violation, a petitioner must show the evidence is favorable to the accused, the State withheld the evidence, and prejudice

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<sup>1</sup>*Brady v. Maryland*, 373 U.S. 83 (1963).

<sup>2</sup>In previous orders, the district court dismissed the other claims raised in Casteel’s petition and in his subsequent supplemental petitions. Casteel does not challenge the dismissal of those claims.

ensued. *Id.* at 198, 275 P.3d at 95. The favorable evidence must be exculpatory evidence and not merely impeachment evidence. *Id.* at 201, 275 P.3d at 97-98. If, as here, the petitioner did not specifically request the evidence, to demonstrate prejudice with regard to a guilty plea, a petitioner must show a reasonable probability he would not have pleaded guilty and would have insisted on going to trial.<sup>3</sup> *Id.* at 203, 275 P.3d at 98-99.

The district court held an evidentiary hearing on this issue. The district court found the evidence was not exculpatory because it related only to potential issues with witnesses in the case and did not establish the factual innocence of Casteel. The district court also found the evidence was not withheld because it was not required to be disclosed by the State. Finally, the district court found, based on the objective factors outlined in *Huebler*, 128 Nev. at 204, 275 P.3d at 99 (quoting *State v. Sturgeon*, 605 N.W. 589, 596 (Wis. Ct. App. 1999)), Casteel failed to demonstrate a reasonable probability he would not have pleaded guilty and would have insisted on going to trial had the evidence been provided. Substantial evidence supports the decision of the district court, and we conclude the district court did not err by denying this claim.


Casteel also argues his plea was invalid because the State should have charged him under a statute that more specifically fits the facts of this case. Casteel acknowledge this claim was not raised in his petition below but argues this court should still consider it because it implicates the jurisdiction of the district court, and jurisdictional claims can be raised at any time. We disagree. This claim did not implicate the jurisdiction of the district court. *See* Nev. Const. art. 6, § 6; NRS 171.010; *Landreth v. Malik*,


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<sup>3</sup>There is no evidence before this court that Casteel made a specific request for this information.

127 Nev. 175, 183, 251 P.3d 163, 168 (2011) ("Subject matter jurisdiction is the court's authority to render a judgment in a particular category of case." (internal quotation marks omitted)). Therefore, we decline to consider it for the first time on appeal. See *McNelson v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Scott N. Freeman, District Judge  
Richard F. Cornell  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk