

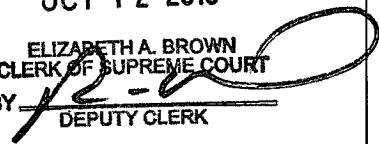
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JUSTIN JAMES EDMINSTON A/K/A
JUSTIN JAMES EDMISTEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 74251

FILED

OCT 12 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Justin James Edminston appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on June 28, 2017.¹ Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

Edminston claimed counsel was ineffective because probation was mandatory but he was sentenced to jail time. To demonstrate ineffective assistance of counsel, a petitioner must show counsel's performance was deficient in that it fell below an objective standard of reasonableness and prejudice resulted in that there was a reasonable probability of a different outcome absent counsel's errors. *Strickland v.*

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).


Washington, 466 U.S. 668, 687-88 (1984); *Warden v. Lyons*, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984) (adopting the test in *Strickland*).

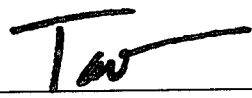
Edminston failed to demonstrate he would have been entitled to relief absent some error of counsel. He was convicted of a gross misdemeanor, *see* NRS 199.480(3), for which the sentencing court “may” suspend the sentence and grant probation but does not have to do so, *see* NRS 176A.100(1)(c). We therefore conclude the district court did not err by denying this claim. *Cf. Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984) (indicating a petitioner is not entitled to relief if he fails to raise claims supported by specific factual allegations that, if true, would entitle him to relief).

Edminston also claimed his guilty plea was involuntary because he entered into it while impaired by the influence of medication. Edminston did not specify what medication he was on or how it affected his ability to understand the proceedings. Such a bare claim does not entitle him to relief. *Cf. id.* Moreover, we note that in his guilty plea agreement, Edminston indicated he was not under the influence of any drug that would impair his ability to understand the proceedings. And during his plea colloquy, he informed the district court that he was on a medication but that he did not believe it was impairing him. Further, he answered all of the district court’s questions appropriately and well beyond simple “yes” and

“no” responses. We therefore conclude the district court did not err by denying this claim.

Having concluded Edminston’s claims lack merit, we
ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Douglas Smith, District Judge
Justin James Edminston
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²We conclude the district court did not abuse its discretion by declining to appoint postconviction counsel. See NRS 34.750(1); *Renteria-Novoa v. State*, 133 Nev. ___, ___, 391 P.3d 760, 760-61 (2017).