

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRIAN RODRIGUEZ, A/K/A BRIAN
RODRIGUEZ-MEDINA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73041

FILED

JUL 20 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

Brian Rodriguez 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; Jennifer P. Togliatti, Judge.

Rodriguez argues the district court erred by denying his claim of ineffective assistance of counsel raised in his November 22, 2016, petition. To prove ineffective assistance of counsel, a petitioner must demonstrate 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, the outcome of the proceedings would have been different. *Strickland v. 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*). Both components of the inquiry must be shown, *Strickland*, 466 U.S. at 697, and the petitioner must demonstrate the underlying facts by a preponderance of the evidence, *Means v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004).

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


18-901565


Rodriguez claimed in his petition that he suffered from ineffective assistance of counsel, but Rodriguez did not support his claim with any further assertions or explanations. The district court denied Rodriguez' petition because he raised an unsupported claim, and the record before this court supports that decision. *See Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). On appeal, Rodriguez appears to clarify that he asserted his counsel failed to investigate, but Rodriguez did not state what counsel should have investigated or what such an investigation would have revealed. Accordingly, Rodriguez failed to demonstrate he was entitled to relief. *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). Therefore, we conclude the district court did not err by denying this claim.

Next, Rodriguez argues the district court erred by denying his request for the appointment of postconviction counsel. The appointment of postconviction counsel was discretionary in this matter. *See NRS 34.750(1)*. After a review of the record, we conclude the district court did not abuse its discretion in this regard as this matter was not sufficiently complex so as to warrant the appointment of postconviction counsel. *See Renteria-Novoa v. State*, 133 Nev. ___, ___ 391 P.3d 760, 760-61 (2017).

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


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Jennifer P. Togliatti, District Judge.
Brian Rodriguez
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk