

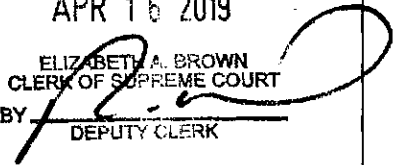
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JEROME MCCORD JONES, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 76568-COA

FILED

APR 16 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Jerome McCord Jones, Jr., appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

Jones argues the district court erred by denying his claims of ineffective assistance of counsel he raised in his April 10, 2018, petition. 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).

First, Jones claimed his counsel was ineffective for failing to properly explain the consequences he faced by entering a guilty plea. Jones contended counsel told him he would face a lenient sentence and would not be adjudicated a habitual criminal if he agreed to enter a guilty plea. Jones

failed to demonstrate his counsel's performance was deficient or resulting prejudice. In the written plea agreement, Jones acknowledged he understood he faced a sentence under the habitual criminal enhancement, he understood the potential range of sentences under that enhancement, and his attorney had explained the consequences he faced due to entry of a guilty plea. Jones also acknowledged in the written plea agreement that the district court had the discretion to impose the appropriate sentence and he was not acting due to any promises of leniency. Given this record, Jones did not demonstrate his counsel's performance fell below an objective standard of reasonableness. Jones also failed to demonstrate a reasonable probability he would have refused to plead guilty and would have insisted on proceeding to trial had counsel undertaken different actions regarding explanation of the plea agreement. Therefore, we conclude the district court did not err by denying this claim.

Second, Jones argues his counsel was ineffective for advising him to resolve a separate criminal case before entering a guilty plea in this matter and for refusing to file a notice of appeal. Jones also appears to argue the trial-level court erred by failing to explain his right to pursue a direct appeal. However, a review of the record reveals that Jones did not raise these claims in his petition. Because Jones did not raise these claims in his petition, we decline to consider them in the first instance on appeal. *See McNelton v. State*, 115 Nev. 396, 416, 990 P.2d 1263, 1276 (1999).

Next, Jones argues the district court erred by declining to conduct an evidentiary hearing. To warrant an evidentiary hearing, a petitioner must raise claims that are supported by specific allegations not belied by the record that, if true, would entitle him to relief. *See Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). The district court

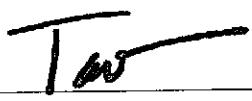
Docket Number - 75691-COA

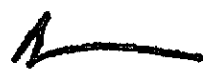


concluded Jones' claims did not meet that standard, and the record before this court reveals the district court's conclusions in this regard were proper. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Susan Johnson, District Judge
Jerome McCord Jones, Jr.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

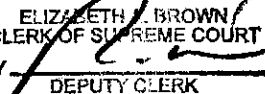
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FELIPE GONZALEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 75691-COA

FILED

APR 16 2019

ELIZABETH L. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Felipe Gonzalez appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on September 20, 2017.¹ Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge.


Gonzalez claimed the Nevada Department of Corrections improperly declined to apply his statutory credits toward his minimum sentence. The district court denied Gonzalez' petition finding NRS 209.4465(8)(d) precludes application of credits to his minimum term because Gonzalez was convicted of a category B felony committed after 2007. Because the charging document and judgment of conviction are not part of the record before this court, the district court's findings are not supported by the record. We nevertheless affirm because Gonzalez failed to support his claim with specific facts that, if true, would entitle him to relief. *See Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984); *Wyatt v State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) (holding a correct result


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).

will not be reversed simply because it is based on the wrong reason). Specifically, Gonzalez failed to allege in his petition when he committed his crimes. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Linda Marie Bell, Chief Judge
Felipe Gonzalez
Attorney General/Carson City
Eighth District Court Clerk