

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WILLIAM HOWARD MITCHELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 66849

FILED

APR 20 2016

MAGIE R. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; David B. Barker, Judge.

Appellant William Howard Mitchell argues the district court erred in denying his claim of ineffective assistance of counsel raised in his August 6, 2012, petition. To prove ineffective assistance of counsel sufficient to invalidate a judgment of conviction based on a guilty plea, a petitioner must demonstrate that 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, 987-88, 923 P.2d 1102, 1107 (1996). Both components of the inquiry must be shown. *Strickland v. Washington*, 466 U.S. 668, 697 (1984).

Mitchell argues his counsel was ineffective because counsel knew Mitchell did not enter a knowing and intelligent guilty plea. Mitchell asserts he was under the influence of medication for depression


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and anxiety, and therefore, did not understand the maximum penalties he faced by entry of his guilty plea. Mitchell fails to demonstrate his counsel's performance was deficient or resulting prejudice.

In the guilty plea agreement, Mitchell acknowledged he was not under the influence of any drug that could impair his ability to comprehend or understand the agreement or guilty plea proceedings. Mitchell also acknowledged in the plea agreement that his attorney had explained the agreement and its consequences to his satisfaction. In addition, at the plea canvass, the district court discussed the charges and possible sentences with the parties, and Mitchell acknowledged he had sufficiently discussed this matter with his counsel. Mitchell fails to demonstrate a reasonable probability he would have refused to plead guilty and would have insisted on trial had counsel sought further time to discuss the maximum penalties with Mitchell. Therefore, the district court did not err in denying this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. David B. Barker, District Judge
William Howard Mitchell
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk