

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KEVIN FIELDS, A/K/A KEVIN LEE
FIELD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 71614

FILED

OCT 11 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Kevin Fields appeals from a district court order denying the postconviction petition for a writ of habeas corpus he filed on July 13, 2016.¹ Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

First, Fields claims the district court erred by denying his petition because his guilty plea was invalid. To this end, Fields argues the district court should not have accepted his guilty plea because there was insufficient evidence to support the charge of larceny from a person. Fields did not raise this argument in his habeas petition, and we decline to consider it for the first time on appeal. *See Davis v. State*, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991), *overruled on other grounds by Means v. State*, 120 Nev. 1001, 1013, 103 P.3d 25, 33 (2004).

Second, Fields claims the district court erred by denying his petition because he is actually innocent of the larceny-from-a-person charge.

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


The district court found Fields had failed to make a colorable showing of actual innocence because he did not demonstrate he was actually innocent of the original robbery and conspiracy charges. The record supports the district court's finding, and we conclude it did not err in denying this claim. *See Bousley v. United States*, 523 U.S. 614, 623-24 (1998) (a petitioner must demonstrate not only that he is factually innocent of the charges to which he pleaded guilty but also that he is factually innocent of any more serious charges forgone in the plea bargaining process).


Third, Fields claims the district court erred by denying his petition because defense counsel was ineffective for persuading him to plead guilty to a crime he did not commit. The district court found this claim was belied by the record and Fields had not offered any "evidence to contradict the record that he understood the charges to which he was pleading." The record supports the district court's findings, and we conclude it did not err in denying this claim. *See Strickland v. Washington*, 466 U.S. 668, 687 (1984); *Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005); *Means v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004); *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

Fourth, Fields claims the district court erred by denying his petition without an evidentiary hearing. The district court found Fields was not entitled to an evidentiary hearing because his claims were either meritless or belied by the record. The record supports the district court's findings, and we conclude it did not err in denying this claim. *See Nika v. State*, 124 Nev. 1272, 1300-01, 198 P.3d 839, 858 (2008) (explaining a petitioner is only entitled to an evidentiary hearing if he has asserted

specific factual allegations that are not belied or repelled by the record and, if true, would entitle him to relief).

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

, C.J.
Silver

, J.
Tao

, J.
Gibbons

cc: Hon. Douglas W. Herndon, District Judge
Kevin Fields
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk