

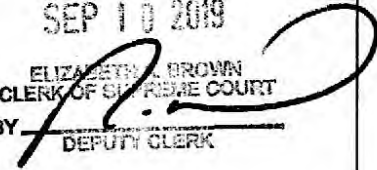
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MATTHEW PAUL WILLIAMS,  
Appellant,  
vs.  
ISIDRO BACA, WARDEN,  
Respondent.

No. 77149-COA

**FILED**

SEP 10 2019

ELIZABETH BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Matthew Paul Williams appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus filed on March 26, 2018, and a supplemental petition filed on August 17, 2018. Second Judicial District Court, Washoe County; Barry L. Breslow, Judge.

First, Williams claims the district court erred by denying his claim that he received ineffective assistance of counsel. Williams claimed counsel was ineffective for failing to participate in the grand jury proceedings, and identified several actions he believed counsel should have taken at those proceedings.

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). We give deference to the district court's factual findings if supported by substantial evidence and not clearly erroneous but review the court's application of the law to those facts de novo. *Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005). To warrant an evidentiary hearing, a petitioner must allege specific facts, 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 found the State presented sufficient evidence at the grand jury proceedings to demonstrate probable cause that Williams committed the charged offense. *See Sheriff, Clark Cty, v. Burcham*, 124 Nev. 1247, 1257-58, 198 P.3d 326, 332-33 (2008) (at the grand jury level, the State need only provide slight or marginal evidence). The district court determined Williams failed to demonstrate he was prejudiced by counsel's actions because he failed to demonstrate a reasonable probability of a different outcome at the grand jury proceedings had counsel participated in the proceedings. The district court's factual findings are supported by substantial evidence, and we conclude the district court did not err by dismissing this claim without first holding an evidentiary hearing.

Second, Williams claims the district court erred by denying his claim that the trial court erred by denying his motion to strike the State's notice of intent to seek the habitual criminal enhancement and the State committed prosecutorial misconduct by pursuing the habitual criminal enhancement after Williams rejected two plea offers. This court concluded


on appeal that the district court did not err by denying the motion to strike and that the State did not retaliate against Williams by seeking the habitual criminal enhancement. *Williams v. State*, Docket No. 71212-COA (Order of Affirmance, November 14, 2017). Because these claims were raised on appeal, and were rejected by this court, these claims were barred by the doctrine of law of the case, which cannot be avoided by a more detailed and precisely focused argument. *See Hall v. State*, 91 Nev. 314, 315-16, 535 P.2d 797, 798-99 (1975). Therefore, we conclude the district court did not err by dismissing this claim without first holding an evidentiary hearing. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) (holding a correct result will not be reversed simply because it is based on the wrong reason).


Third, Williams claims the district court erred by denying his claim that the State committed misconduct at the grand jury proceedings and at sentencing. These claims could have been raised on direct appeal from Williams' judgment of conviction, and Williams failed to demonstrate cause and actual prejudice. Therefore, these claims were procedurally barred, *see* NRS 34.810(1)(b)(2), and we conclude the district court did not err by dismissing these claims without first holding an evidentiary hearing. *See State v. Eighth Judicial Dist. Court (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005) (application of the procedural bars is mandatory); *see also Wyatt*, 86 Nev. at 298, 468 P.2d at 341.

Finally, Williams claims the district court erred by considering a supplemental petition filed by Theodore Stevens and by refusing to consider the supplemental petition filed by Williams. This claim is belied by the record. The district court's order specifically stated it was not

considering the supplemental petition filed by Stevens and it was considering the supplemental petition filed by Williams.

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

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Barry L. Breslow, District Judge  
Matthew Paul Williams  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk