

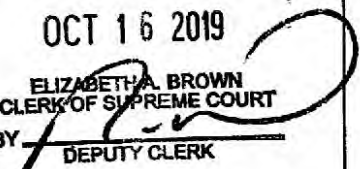
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBERT LEE TAYLOR,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 77879-COA

FILED

OCT 16 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Robert Lee Taylor appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on July 3, 2018. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

Taylor contends the district court erred by denying his claims of ineffective assistance of trial-level counsel. To demonstrate ineffective assistance of counsel sufficient to invalidate a judgment of conviction based on a guilty plea, a petitioner must show counsel's performance was deficient in that it fell below an objective standard of reasonableness and prejudice resulted in that, but for counsel's errors, there is a reasonable probability 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). We give deference to the district court's factual findings that are supported by substantial evidence and not clearly wrong 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).


Taylor first claimed counsel was ineffective for misleading him into believing he was pleading to only one count of robbery with the use of a deadly weapon. Taylor acknowledged in his guilty plea agreement and during his plea colloquy that he was pleading guilty to two counts of robbery with the use of a deadly weapon and that the attendant enhancement sentences would run consecutive to the robbery sentences. Further, the district court imposed the sentence to which the parties had stipulated. Taylor thus failed to demonstrate counsel was deficient. We therefore conclude the district court did not err by denying this claim.


Taylor next claimed counsel was ineffective for failing to allow him to see any of the evidence against him for the second robbery. Despite claiming to have seen none of the evidence, Taylor nevertheless pleaded guilty. Further, he does not indicate what that evidence would have shown or how it would have affected his plea decision. Taylor thus failed to prove that, but for counsel's alleged deficiency, he would not have pleaded guilty and would have insisted on going to trial. We therefore conclude the district court did not err by denying this claim.

Finally, Taylor claimed counsel was ineffective because there was no evidence the firearm Taylor was using met NRS 193.165(6)'s definition of "deadly weapon." A petitioner's claims must be supported by specific factual allegations that, if true and not belied by the record, would entitle him to relief. *Cf. Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). Taylor failed to indicate what counsel should or should not have done differently. He thus failed to sufficiently plead counsel's deficiency. Further, the sentencing enhancement is for the use of "a firearm or other deadly weapon," NRS 193.165(1), and Taylor admitted to being in

possession of the firearm during the crimes. We therefore conclude the district court did not err by denying this claim.¹ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Valerie Adair, District Judge
Robert Lee Taylor
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹To the extent Taylor challenges the sufficiency of the evidence against him, this claim is outside the scope of claims permissible in a postconviction petition for a writ of habeas corpus challenging the validity of a guilty plea. See NRS 34.810(1)(a); see also *Franklin v. State*, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) (holding “claims that are appropriate for a direct appeal must be pursued on direct appeal, or they will be considered waived in subsequent proceedings”), *overruled on other grounds* by *Thomas v. State*, 115 Nev. 148, 150, 979 P.2d 222, 223-24 (1999).