

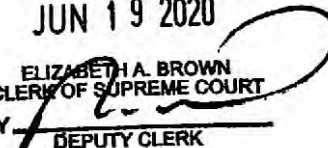
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MYKEL TYREL BROWN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 79345-COA

FILED

JUN 19 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Mykel Tyrel Brown appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on April 11, 2019. Eighth Judicial District Court, Clark County; Mary Kay Holthus, Judge.

Brown claimed he was denied his rights to a speedy and public trial, to due process, and to be free from unreasonable search and seizure. He also claimed the State withheld exculpatory evidence in violation of *Brady v. Maryland*, 373 U.S. 83 (1963). These claims were appropriate to raise in a direct appeal and were thus waived. See *Franklin v. State*, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994), *overruled on other grounds by Thomas v. State*, 115 Nev. 148, 150, 979 P.2d 222, 223-24 (1999).

To the extent Brown claimed trial-level counsel was ineffective, he failed to allege specific factual allegations that are not belied by the record and, if true, would entitle him to relief. Brown also failed to specify any action of counsel that was objectively unreasonable or that, but for any deficiency, he would not have pleaded guilty and would have insisted on going to trial. Therefore, any such claims were not sufficiently pleaded and he was not entitled to an evidentiary hearing. See *Hill v. Lockhart*, 474 U.S. 52, 58-59 (1985) (setting forth the test for ineffective assistance of counsel

where the petitioner was convicted pursuant to a guilty plea); *Kirksey v. State*, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996); *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984) (setting forth the standard to obtain an evidentiary hearing on postconviction claims).

Finally, Brown requested the appointment of postconviction counsel. The district court found Brown did not present any difficult issues and appeared to comprehend the proceedings. These findings are supported by the record. We therefore conclude the district court did not abuse its discretion by denying Brown's request. See NRS 34.750(1); *Renteria-Novoa v. State*, 133 Nev. 75, 76, 391 P.3d 760, 761 (2017).

For the foregoing reasons, we conclude the district court did not err by denying Brown's petition, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Mary Kay Holthus, District Judge
Mykel Tyrel Brown
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk