

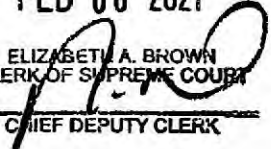
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOY KRISTINE CROMWELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 80661-COA

FILED

FEB 08 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Joy Kristine Cromwell appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Mary Kay Holthus, Judge.

In her November 13, 2019, petition, Cromwell argued her trial-level counsel was ineffective. To demonstrate ineffective assistance of defense 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, 987-88, 923 P.2d 1102, 1107 (1996). Both components of the inquiry must be shown. *Strickland v. Washington*, 466 U.S. 668, 687 (1984).

First, Cromwell argued her counsel was ineffective for failing to inform her that the sentencing court could impose illegal conditions of probation. In support of her claim, Cromwell relied upon *McNeill v. State*, 132 Nev. 551, 375 P.3d 1022 (2016), to assert that the sentencing court cannot impose probationary conditions that were not specifically permitted

by a statute. However, Cromwell's reliance upon *McNeill* was misplaced because that opinion discussed limitations upon the imposition of conditions of lifetime supervision, and not limitations on conditions of probation. See *McNeill*, 132 Nev. at 555, 375 P.3d at 1025. The record in this matter demonstrated that the sentencing court properly imposed conditions on Cromwell's probation, see NRS 176A.400(1)(c) (permitting the sentencing court to impose as a condition of probation "[a]ny reasonable conditions to protect the health, safety or welfare of the community"), and Cromwell did not demonstrate the conditions of her probation were improper. Accordingly, Cromwell failed to demonstrate her counsel's performance fell below an objective standard of reasonableness or a reasonable probability of a different outcome had counsel performed different actions. Therefore, we conclude the district court did not err by denying this claim.


Second, Cromwell argued her counsel was ineffective for failing to investigate whether the drug-test kits used by police officers when she was arrested produced false-positive results. Cromwell contended counsel's failure to investigate this issue caused her to enter an unknowing and involuntary plea. The district court noted that the police reports stated that Cromwell admitted that the substance in her possession was methamphetamine. In light of her confession, Cromwell did not demonstrate her counsel's performance fell below an objective standard of reasonableness. See *Molina v. State*, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004) ("Where counsel and the client in a criminal case clearly understand the evidence and the permutations of proof and outcome, counsel is not required to unnecessarily exhaust all available public or private resources."). Moreover, Cromwell did not demonstrate a reasonable probability she would have refused to plead guilty and would have insisted


on proceeding to trial had counsel investigated this issue. Accordingly, the district court did not err by denying this claim.

Finally, Cromwell argued the sentencing court improperly restricted her ability to communicate with her husband and the State committed misconduct by utilizing unreliable drug-test kits. Cromwell's claims were not based on an allegation that her guilty plea was involuntarily or unknowingly entered or that her plea was entered without the effective assistance of counsel and, therefore, these claims were not permissible in a postconviction petition for a writ of habeas corpus stemming from a guilty plea. See NRS 34.810(1)(a). Accordingly, the district court properly denied relief for these claims.

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


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Mary Kay Holthus, District Judge
Joy Kristine Cromwell
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk