

IN THE SUPREME COURT OF THE STATE OF NEVADA

LUCAS HUNTER SCHOPPER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 81403

LUCAS HUNTER SCHOPPER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 81404

FILED

JAN 14 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

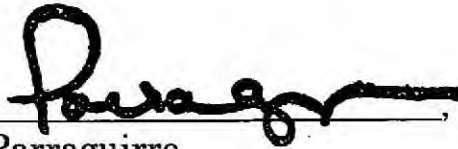
ORDER VACATING JUDGMENT AND REMANDING

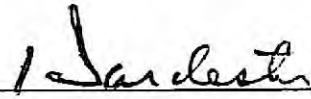
These are consolidated appeals from a district court order denying postconviction petitions for writs of habeas corpus. Second Judicial District Court, Washoe County; David A. Hardy, Judge. Appellant Lucas Hunter Schopper argues that the district court erred in denying the petitions as procedurally barred. We vacate and remand.

Schopper was convicted pursuant to a guilty plea in two district court cases. In his petitions for postconviction habeas relief, Schopper alleged that counsel provided ineffective assistance during the sentencing hearing by failing to present evidence of Schopper's mental health issues and by failing to argue for diversion to mental health court. The district court concluded that the petitions were barred under NRS 34.810(1)(a) because Schopper pleaded guilty and the petitions were "not based upon an allegation that the plea was involuntarily or unknowingly entered or that the plea was entered without effective assistance of counsel." In rejecting Schopper's petitions, the district court did not have the benefit of our recent decision in *Gonzales v. State*, 137 Nev., Adv. Op. 40, 492 P.3d 556 (2021). There, we clarified that a petitioner who pleaded guilty may allege that he

or she received ineffective assistance of counsel at sentencing because that claim could not have been raised before entering the guilty plea and barring such a claim would "violate the spirit of our habeas statute and the public policy of this state." *Id.* at 562. Consistent with *Gonzales*, the district court should reach the merits of Schopper's claims that counsel provided ineffective assistance at sentencing. Accordingly, we

ORDER the judgment of the district court VACATED AND REMAND these matters to the district court for proceedings consistent with this order.


_____, C.J.
Parraguirre


_____, J.
Hardesty


_____, J.
Pickering

cc: Hon. David A. Hardy, District Judge
David Kalo Niedert
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk