

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ERIC RYAN SCOTT,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 82616-COA

**FILED**

FEB 09 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Eric Ryan Scott appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on February 24, 2020, and a supplement filed on October 23, 2020. Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge.

Scott claims the district court abused its discretion by denying him an evidentiary hearing on his claim that counsel was ineffective for failing to investigate. To demonstrate ineffective assistance of trial counsel, a petitioner must show counsel's performance was deficient in that it fell below an objective standard of reasonableness and prejudice resulted in that there was a reasonable probability of a different outcome absent counsel's errors. *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 687.

To warrant an evidentiary hearing, a petitioner must raise claims supported by specific factual allegations that are not belied by the


record and, if true, would entitle him to relief. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). A petitioner alleging that an attorney should have conducted a better investigation must demonstrate what the results of a better investigation would have been and how it would have affected the outcome of the proceedings. *Molina v. State*, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004). A district court's denial of a request for an evidentiary hearing is reviewed for an abuse of discretion. *Berry v. State*, 131 Nev. 957, 969, 363 P.3d 1148, 1156 (2015).

Scott's bare claim failed to specifically allege what investigation counsel failed to undertake, what the results of any such investigation would have been, and how the results would have affected the outcome of his trial. Therefore, Scott failed to demonstrate he was prejudiced, and we conclude the district court did not abuse its discretion by denying Scott an evidentiary hearing on this claim.

Scott also claims the district court erred by merely copying the State's response to his pleadings in its order and not giving Scott the opportunity to rebut the State's proposed order. The district court properly directed the State to prepare an order consistent with its response. *See Byford v. State*, 123 Nev. 67, 69, 156 P.3d 691, 692 (2007) (“[T]he district court may request a party to submit proposed findings of facts and conclusions of law . . .”). Even assuming the district court erred by failing to allow Scott an opportunity to review and respond to the proposed draft order, Scott fails to demonstrate how the error affected his substantial rights. *See* NRS 178.598 (“Any error, defect, irregularity or variance which does not affect substantial rights shall be disregarded.”). We therefore

conclude Scott is not entitled to relief on this claim. For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Ronald J. Israel, District Judge  
AMD Law, PLLC  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk