


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WILLIE CHARLES WILLIAMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82995-COA

FILED

JUN 29 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Willie Charles Williams appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on January 5, 2021. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Williams first argues the district court erred by denying his claim of ineffective assistance of trial counsel without conducting an evidentiary hearing. 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. We give deference to the district court's factual findings if supported by substantial evidence and not clearly erroneous 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). 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).

Williams claimed his trial counsel was ineffective for failing to investigate or cross-examine a State witness about a plea deal she received. Williams alleged that the witness had a felony charge reduced to a gross misdemeanor in exchange for her testimony. The witness testified while in custody and explained she was serving a three-month jail sentence after pleading guilty to a gross misdemeanor. She further testified that her conviction and sentence had nothing to do with why she was testifying and that the State offered her nothing in exchange for her testimony. Williams failed to explain in his petition below what the results of any investigation would have been, what questions counsel should have asked the witness on cross-examination, or how any additional action taken by counsel would have affected the outcome of his trial. Accordingly, Williams failed to demonstrate counsel's performance fell below an objective standard of reasonableness or a reasonable probability of a different outcome despite counsel's alleged inaction. Therefore, we conclude the district court did not err by denying this claim without conducting an evidentiary hearing.

Next, Williams argues for the first time on appeal his trial counsel was ineffective for failing to adequately investigate and present exculpatory evidence at trial regarding whether gunshot residue was found on a black T-shirt recovered from Williams' laundry. Williams also argues for the first time on appeal his appellate counsel was ineffective for failing to present additional issues or cogent argument on direct appeal. Because these claims were not raised in Williams' petition below, we decline to consider them on appeal in the first instance. *See id.*

Finally, Williams claims the district court abused its discretion by denying his motion to appoint counsel. The appointment of counsel in this matter was discretionary. *See* NRS 34.750(1). When deciding whether to appoint counsel, the district court may consider factors, including whether the issues presented are difficult, whether the petitioner is unable to comprehend the proceedings, or whether counsel is necessary to proceed with discovery. *Id.*; *Renteria-Novoa v. State*, 133 Nev. 75, 76, 391 P.3d 760, 761 (2017). Because Williams appears from the record to be indigent and his petition was a first petition not subject to summary dismissal, *see* NRS 34.745(1), (4), Williams met the threshold requirements for the appointment of counsel. *See* NRS 34.750(1); *Renteria-Novoa*, 133 Nev. at 76, 391 P.3d at 761. However, the record reveals that the issues in this matter were not difficult, Williams was able to comprehend the proceedings, and discovery with the aid of counsel was not necessary. Therefore, we conclude the district court did not abuse its discretion by denying the motion for the appointment of counsel, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Michelle Leavitt, District Judge
Legal Resource Group
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk