

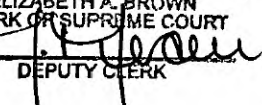
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAVION CARLOS POPE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85014-COA

FILED

JAN 13 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Javion Carlos Pope appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on September 25, 2020. Eighth Judicial District Court, Clark County; Carli Lynn Kierny, Judge.

In his petition, Pope claimed that his 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). 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).

Pope argued that counsel was ineffective for coercing him to plead guilty. He claimed he was coerced because counsel did not explain there was no evidence to support the deadly weapon enhancements and the count of discharging a weapon. At the grand jury proceedings, the victims testified that when they were approached by Pope, he pulled out a firearm and threatened them with it. And one of the victims testified Pope shot at him. Further, a firearm that matched the victims' descriptions of the firearm was found with Pope's shoe that he had discarded when running from police. Thus, there was evidence to support the deadly weapon enhancements and the count of discharging a weapon, and Pope failed to demonstrate counsel was deficient or that he was coerced. Therefore, we conclude the district court did not err by denying this claim.

Pope also argued that the district court erred by taking his plea and adjudicating him guilty when there was not sufficient evidence of the deadly weapon enhancements and the count of discharging a weapon. These claims were outside the scope of a postconviction petition for a writ of habeas corpus challenging a judgment of conviction entered pursuant to a guilty plea. *See* NRS 34.810(1)(a). Therefore, we conclude the district court did not err by denying these claims. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Carli Lynn Kierny, District Judge
Javion Carlos Pope
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk