


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

PHILIP SALKELD, III,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 84970-COA

FILED

FEB 14 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Philip Salkeld, III, appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus filed on April 3, 2020, and a supplemental petition filed on October 10, 2022. Second Judicial District Court, Washoe County; Kathleen A. Sigurdson, Judge.

Salkeld argues he sufficiently pleaded his claim that his guilty plea was not entered knowingly, voluntarily, and intelligently and the district court erred by denying his claim without first conducting an evidentiary hearing. In his petition, Salkeld claimed that when the plea agreement was explained to him, he was in the hospital in significant pain, was on painkillers, and did not understand the agreement. Further, he argued that on the day his plea was signed and entered, he was on the medication Tramadol, still did not understand the plea agreement, and believed he had agreed to a sentence of two to five years in prison.

After sentencing, a district court may permit a petitioner to withdraw his guilty plea where necessary “to correct a manifest injustice.” NRS 176.165; *see Harris v. State*, 130 Nev. 435, 448, 329 P.3d 619, 628 (2014) (stating NRS 176.165 “sets forth the standard for reviewing a post-conviction claim challenging the validity of a guilty plea”). “This court will

not invalidate a plea as long as the totality of the circumstances, as shown by the record, demonstrates that the plea was knowingly and voluntarily made and that the defendant understood the nature of the offense and the consequences of the plea.” *State v. Freese*, 116 Nev. 1097, 1105, 13 P.3d 442, 448 (2000). 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).

At the change of plea hearing, the district court asked Salkeld whether he was under the influence of any medications. Salkeld stated he was taking antibiotics and the last time he had medication was the night before the hearing. Salkeld did not state he was taking any pain medications. He also stated he was not taking any medications that affected his ability to perceive or understand what was going on around him. The district court asked Salkeld whether he read and understood the plea agreement and whether counsel explained the agreement to him. Salkeld answered in the affirmative. Thereafter, the district court inquired whether Salkeld understood the consequences of his plea. While Salkeld initially stated that he was facing up to a life sentence, he agreed with the district court that a life sentence was incorrect and correctly told the district court he was facing up to 15 years. The district court then went over the terms of the agreement and that the parties stipulated to a sentence of 4 to 10 years in prison. Salkeld agreed that was the stipulated sentence. The district court explained to Salkeld four more times during the hearing that the parties stipulated to a sentence of 4 to 10 years and confirmed that Salkeld understood that. Further, Salkeld answered all of the district court’s questions appropriately, and there is no indication in the record that

Salkeld was confused or did not understand the proceedings or the consequences of his plea.

Based on the record above, we conclude that Salkeld's claim that he did not understand the agreement, and specifically the stipulated sentence, was belied by the record. Thus, Salkeld failed to demonstrate that the district court erred by denying his claim without first conducting an evidentiary hearing. Therefore, we conclude the district court did not err by dismissing the petition, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Kathleen A. Sigurdson, District Judge
Oldenburg Law Office
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk