

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JONATHON ANTHONY TAYLOR,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 87294-COA

FILED

AUG 27 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

JONATHON ANTHONY TAYLOR,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 87295-COA

*ORDER DISMISSING APPEAL (DOCKET NO. 87294-COA) AND
AFFIRMING (DOCKET NO. 87295-COA)*

Jonathon Anthony Taylor appeals from identical motions for reconsideration filed in district court case no. 22-10DC-1175 and district court case no. 22-10DC-1176 (Docket No. 87294-COA) and orders denying identical postconviction petitions for a writ of habeas corpus filed in the same two district court cases on July 24, 2023 (Docket No. 87295-COA). These cases were consolidated on appeal. *See* NRAP 3(b). Tenth Judicial District Court, Churchill County; Thomas L. Stockard, Judge.

Docket No. 87294-COA

In July 2023, Taylor filed identical motions to modify his sentence in both of his district court cases. The district court entered orders denying his motions because Taylor failed to serve them on the State. Taylor then filed a notice of appeal from the district court's orders, and this court affirmed. *See Taylor v. State*, Nos. 87240-COA, 87245-COA, 2024 WL 3083266 (Nev. Ct. App. June 20, 2024) (Order of Affirmance). While that

appeal was pending, Taylor filed identical motions to reconsider the denial of the motions to modify his sentence. Five days after filing the motions for reconsideration, however, Taylor filed another notice of appeal, and no further action was taken on the motions.

Because the district court has not entered orders denying Taylor's motions for reconsideration, Taylor fails to identify an appealable order. Further, no statute or court rule would permit an appeal from an order denying a motion for reconsideration. Therefore, we lack jurisdiction to consider Taylor's appeal in Docket No. 87294-COA, and we order it dismissed. See NRAP 3(c)(1)(B); *Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990).

Docket No. 87295-COA

Taylor argues that the district court erred by denying his claim of ineffective assistance of counsel raised in his July 24, 2023, petitions. To demonstrate ineffective assistance of counsel, a petitioner must show that counsel's performance fell below an objective standard of reasonableness and that the prejudice from the purportedly deficient performance creates a reasonable probability that there would have been a different outcome absent counsel's errors. *Strickland v. Washington*, 466 U.S. 668, 687-88 (1984); see also *Warden v. Lyons*, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting the *Strickland* test). "With respect to the prejudice prong, '[a] reasonable probability is a probability sufficient to undermine confidence in the outcome.'" *Johnson v. State*, 133 Nev. 571, 576, 402 P.3d 1266, 1273 (2017) (alteration in original) (quoting *Strickland*, 466 U.S. at 694). Both components of the inquiry must be shown, *Strickland*, 466 U.S. at 697, and the petitioner must demonstrate the underlying facts of their claims by a preponderance of the evidence, *Means v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). We defer to the district court's factual findings that are

supported by substantial evidence and not clearly wrong but review its application of the law to those facts de novo. *Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005).

Taylor argues that his counsel was ineffective for failing to present additional mitigating information at his probation revocation hearing. In its order denying his petition, the district court found that Taylor's claim was belied by the record and that his counsel presented numerous mitigating facts in support of reinstatement. Substantial evidence supports these findings. Therefore, Taylor fails to demonstrate that counsel's performance fell below an objective standard of reasonableness.

In addition, the district court noted that Taylor admitted to multiple probation violations, including pleading guilty to a new gross misdemeanor charge. When determining whether to revoke a defendant's probation for a non-technical violation, the judge need only be reasonably satisfied "that the conduct of the probationer has not been as good as required by the conditions of probation." *Lewis v. State*, 90 Nev. 436, 438, 529 P.2d 796, 797 (1974); *see also* NRS 176A.630(1). Therefore, Taylor also fails to demonstrate a reasonable probability of a different outcome had counsel provided additional mitigating information. For the foregoing reasons, we conclude that the district court did not err by denying this claim.

Finally, Taylor argues that his counsel was ineffective for failing to investigate, wrongly advising him to waive his preliminary hearing, coercing him to enter a plea, and wrongly advising him to waive his right to challenge the probation violations. He also claims that he is actually innocent of the charges to which he pleaded guilty. These claims

were not raised in Taylor's petitions below, and we decline to consider these claims for the first time on appeal. *See State v. Wade*, 105 Nev. 206, 209 n.3, 772 P.2d 1291, 1293 n.3 (1989). Accordingly, we affirm the judgments of the district court in Docket No. 87295-COA.

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Thomas L. Stockard, District Judge
Jonathon Anthony Taylor
Attorney General/Carson City
Churchill County District Attorney/Fallon
Churchill County Clerk