

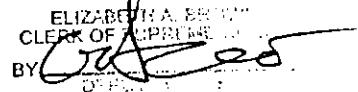
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RYAN WILLIAMS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 88849-COA

FILED

MAR 07 2025

ELIZABETH A. BROWN  
CLERK OF APPEALS  
BY: 

ORDER OF AFFIRMANCE

Ryan Williams appeals from a district court order dismissing a postconviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Kathleen M. Drakulich, Judge.

Williams argues the district court erred by dismissing his petition without conducting an evidentiary hearing. Williams raised several claims asserting the presentence investigation report (PSI) and the recommendations therein were not based on objective criteria resulting in a sentencing decision that violated due process and the Eighth Amendment's prohibition against cruel and unusual punishment. These claims could have been presented to the trial court or argued on direct appeal and were therefore procedurally barred pursuant to NRS 34.810(1)(b).<sup>1</sup> Williams did not allege good cause or actual prejudice to

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<sup>1</sup>The district court erred by failing to apply the mandatory procedural bars provided by NRS 34.810. *See State v. Eighth Jud. Dist. Ct. (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005) ("Application of the statutory procedural default rules to post-conviction habeas petitions is mandatory."). We nevertheless affirm the district court's denial of these claims for the reasons stated herein. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338,

overcome the procedural bar, *see* NRS 34.810(4), and we conclude the district court did not err in dismissing these claims without conducting an evidentiary hearing, *see Rubio v. State*, 124 Nev. 1032, 1046 n.53, 194 P.3d 1224, 1234 n.53 (2008) (providing that a district court need not conduct an evidentiary hearing concerning claims that are procedurally barred when the petitioner cannot overcome the procedural bars).

Williams also raised claims of ineffective assistance of trial and appellate counsel. 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*). To demonstrate ineffective assistance of appellate 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 the omitted issue would have a reasonable probability of success on appeal. *Kirksey v. State*, 112 Nev. 980, 998, 923 P.2d 1102, 1114 (1996). Both components of the inquiry—deficiency and prejudice—must be shown. *Strickland*, 466 U.S. at 687. To warrant an evidentiary hearing on a claim, a petitioner must raise claims supported by specific factual allegations that are not belied by the record and, if true, would entitle the petitioner to relief. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

First, Williams claimed trial counsel was ineffective for failing to obtain a psychiatric expert. Williams did not describe what a psychiatric

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341 (1970) (holding a correct result will not be reversed simply because it is based on the wrong reason).

expert would have testified about or how that testimony would have affected the outcome of trial. *See Evans v. State*, 117 Nev. 609, 645, 28 P.3d 498, 522 (2001) (recognizing that a petitioner alleging ineffective assistance of counsel for failure to procure expert testimony must “allege specifically what the[ ] expert[ ] could have done to make a different result reasonably probable”), *overruled on other grounds by Lisle v. State*, 131 Nev. 356, 366 n.5, 351 P.3d 725, 732 n.5 (2015). Accordingly, Williams did not allege sufficient facts to demonstrate counsel was deficient or a reasonable probability of a different result but for counsel’s errors. Therefore, we conclude the district court did not err in dismissing this claim without conducting an evidentiary hearing.


Second, Williams claimed trial counsel failed to investigate and present mitigating evidence at sentencing. Williams did not describe what additional mitigation evidence counsel could have discovered and presented at sentencing, how it differed from or supplemented the information presented in the PSI, and how it would have affected the outcome of the sentencing hearing. *See Molina v. State*, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004) (stating 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). Accordingly, Williams did not allege sufficient facts to demonstrate counsel was deficient or a reasonable probability of a different result but for counsel’s errors. Therefore, we conclude the district court did not err in dismissing this claim without conducting an evidentiary hearing.

Next, Williams claimed appellate counsel should have argued that trial counsel was ineffective. Ineffective assistance of trial counsel

claims are generally inappropriate on direct appeal, and Williams did not allege that his claim fell into an exception to that general rule. See *Pellegrini v. State*, 117 Nev. 860, 883, 34 P.3d 519, 534 (2001) (“[W]e have generally declined to address claims of ineffective assistance of counsel on direct appeal unless there has already been an evidentiary hearing or where an evidentiary hearing would be unnecessary.”), *abrogated on other grounds by Rippo v. State*, 134 Nev. 411, 423 n.12, 423 P.3d 1084, 1097 n.12 (2018). Accordingly, Williams did not allege sufficient facts to demonstrate appellate counsel’s performance was deficient or a reasonable likelihood of success on appeal had counsel raised the claim. Therefore, the district court did not err in dismissing this claim without conducting an evidentiary hearing, and we

ORDER the judgment of the district court AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Kathleen M. Drakulich, District Judge  
Ryan Williams  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk