

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVEN EDWARD CANO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 89104-COA

FILED

MAY 06 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Steven Edward Cano appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on November 17, 2023,¹ and an amended petition filed on March 12, 2024. Eighth Judicial District Court, Clark County; Monica Trujillo, Judge.

In his petition and amended petition, Cano claimed trial-level counsel was ineffective. To demonstrate ineffective assistance of 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 prejudice regarding the decision to enter a guilty plea, a petitioner must show a reasonable probability that, but for counsel's errors, petitioner would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 58-59 (1985);

¹Cano's petition was titled a "motion to correct presentence credits." The district court construed this motion as a postconviction habeas petition.

Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996). Both components of the inquiry—deficiency and prejudice—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). 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, Cano claimed counsel coerced him into entering his guilty plea. In particular, Cano contended counsel lied and told him the victim had given the district attorney a letter that Cano had written stating “no face no case.” Cano also appeared to contend he was under “emotional duress” due to personal family matters and financial losses from incarceration.

Cano claimed he knew counsel’s purported statement was false, and he did not specify why the purported statement caused him to enter his guilty plea. Moreover, Cano’s allegations of emotional distress do not indicate his plea was coerced. *Cf. Stevenson v. State*, 131 Nev. 598, 604, 354 P.3d 1277, 1281 (2015) (“[U]ndue coercion occurs when a defendant is induced by promises or threats which deprive the plea of the nature of a voluntary act.” (internal quotation marks omitted)); *see also Miles v. Dorsey*, 61 F.3d 1459, 1470 (10th Cir. 1995) (“Although deadlines, mental anguish, depression, and stress are inevitable hallmarks of pretrial plea discussions, such factors considered individually or in aggregate do not establish that [a defendant’s] plea was involuntary.”). Therefore, Cano failed to allege specific facts indicating counsel was deficient or a reasonable probability he

would not have pleaded guilty and would have insisted on going to trial but for counsel's errors. Accordingly, we conclude the district court did not err by denying this claim.²

Second, Cano appeared to claim counsel was ineffective at sentencing for failing to "further investigate[]" withdrawing his guilty plea in light of "printed out text messages showed [sic] in court." Cano's bare claim did not specify what these text messages stated, why counsel should have investigated withdrawing Cano's plea in light of the text messages, or what such an investigation would have revealed.³ Therefore, Cano failed to allege specific facts indicating counsel was deficient or a reasonable probability of a different outcome but for counsel's errors. 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

²The district court determined this claim was "procedurally barred" because it could have been raised on direct appeal. This determination was erroneous. See *Franklin v. State*, 110 Nev. 750, 751-52, 877 P.2d 1058, 1059 (1994) (stating "challenges to the validity of a guilty plea and claims of ineffective assistance of trial and appellate counsel must be first pursued in post-conviction proceedings in the district court," and that "*all other claims* that are appropriate for a direct appeal must be pursued on direct appeal, or they will be considered waived in subsequent proceedings" (emphasis added)), *overruled on other grounds by Thomas v. State*, 115 Nev. 148, 150, 979 P.2d 222, 223-24 (1999). Nonetheless, for the reasons previously discussed, we conclude the district court reached the correct result. See *Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 33, 341 (1970) (holding a correct result will not be reversed simply because it is based on the wrong reason).

³To the extent Cano suggested an investigation would have revealed the aforementioned coercion, as previously discussed, Cano failed to allege specific facts indicating his plea was coerced.

how it would have affected the outcome of the proceedings). Accordingly, we conclude the district court did not err by denying this claim.⁴

Cano also claimed he was entitled to 365 days of presentence credit. Any independent claim for presentence credit was waived because it could have been raised on direct appeal. *See Franklin v. State*, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994), *overruled on other grounds by Thomas v. State*, 115 Nev. 148, 150, 979 P.2d 222, 223-24 (1999). Further, such a claim is outside the scope of claims permissible in a postconviction habeas petition stemming from a guilty plea because it does not challenge the validity of the guilty plea or allege the plea was entered without the effective assistance of counsel.⁵ *See NRS 34.810(1)(a); see also Griffin v. State*, 122 Nev. 737, 745, 137 P.3d 1165, 1170 (2006) (“Because the scope of claims that may be raised in a habeas corpus petition is limited, [a claim seeking presentence credit] should be presented as an ineffective assistance of counsel claim . . .”).

To the extent Cano contended counsel was ineffective for failing to ensure he received 365 days of presentence credit, Cano’s claim lacked merit. A defendant is only entitled to presentence credit “for the amount of time which the defendant has *actually spent in confinement* before

⁴The district court also erred by denying this claim as “procedurally barred.” Nonetheless, for the reasons previously discussed, we conclude the district court reached the correct result. *See Wyatt*, 86 Nev. at 298, 468 P.2d at 341.

⁵To the extent Cano claimed he was entitled to have good time credits applied toward his parole eligibility date, such a claim had to be raised in a separate petition challenging the computation of time served. *See NRS 34.738(3); see also NRS 34.733* (stating a petition challenging the computation of time served must substantially follow a certain form).

conviction.” NRS 176.055(1) (emphasis added). This does not include time spent on house arrest. *See State v. Second Jud. Dist. Ct. (Jackson)*, 121 Nev. 413, 418-19, 116 P.3d 834, 837-38 (2005). The presentence investigation report (PSI) indicates Cano was in custody for 65 days, from January 17, 2023, until March 22, 2023, and Cano received 65 days of presentence credit. Therefore, Cano failed to allege specific facts indicating counsel was deficient or a reasonable probability of a different outcome but for counsel’s errors. Accordingly, we conclude the district court did not err by denying this claim.


Cano also claimed the sentencing court relied on a mistaken assumption about his criminal record that worked to his detriment. In particular, Cano contended that the sentencing court relied on a prior conviction that was reversed in imposing his sentence. A district court has inherent authority to modify a sentence that is based on a mistaken assumption about a defendant’s criminal record that worked to the defendant’s extreme detriment. *Edwards v. State*, 112 Nev. 704, 707-08, 918 P.2d 321, 324 (1996).

Cano failed to identify any prior conviction that was subsequently reversed. Moreover, although the PSI indicates Cano was previously convicted of 3 felonies, 2 gross misdemeanors, and 10 misdemeanors, the sentencing court did not indicate its sentencing decision was based upon this history or any specific conviction. Therefore, Cano failed to demonstrate the sentencing court relied on a mistaken assumption about his criminal record that worked to his extreme detriment.


Accordingly, we conclude the district court did not err by denying this claim.⁶

For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Monica Trujillo, District Judge
Steven Edward Cano
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

⁶The district court also erred by denying this claim as “procedurally barred.” *See id.* at 708, 918 P.2d at 324 (“Because of the very nature of the remedy sought in a motion for relief from a sentence that . . . is the result of a mistaken assumption regarding a criminal defendant’s record, time constraints and procedural defaults necessarily do not apply.”). Nonetheless, for the reasons previously discussed, we conclude the district court reached the correct result. *See Wyatt*, 86 Nev. at 298, 468 P.2d at 341.