IN THE COURT OF APPEALS OF THE STATE OF NEVADA
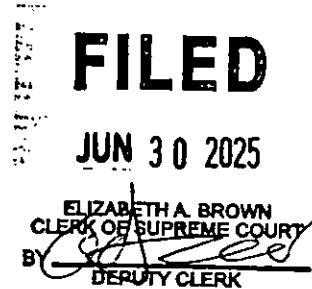
PERRY BRIAN OSHIRO,
Appellant,
vs.
WARDEN WILLIAMS,
Respondent.

No. 89234-COA

FILED

JUN 3 0 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY_____
DEPUTY CLERK

ORDER OF AFFIRMANCE

Perry Brian Oshiro appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on July 2, 2024. Eighth Judicial District Court, Clark County; Bita Yeager, Judge.

In his petition, Oshiro contended trial-level counsel provided ineffective assistance. To demonstrate ineffective assistance of 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). A petitioner must raise claims supported by specific factual allegations that are not belied by the record and, if true, would

25-28554

entitle the petitioner to relief. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

First, Oshiro claimed counsel was ineffective for promising him that he would receive probation or be seen by a specialty court judge due to his unspecified mental health disorders. The district court found that the guilty plea agreement and plea canvass indicated Oshiro was not promised such leniency and that Oshiro had read and understood the guilty plea agreement.[1] The record supports the district court's findings. During the plea canvass, Oshiro informed the trial-level court that he was entering his plea freely and voluntarily, that no one had forced or threatened him to enter his plea, and that no one had made any promises to him other than what was contained in the plea agreement.[2] Oshiro also indicated that he understood everything in the plea agreement, that sentencing was solely in the district court's discretion, and that no one could promise him "probation, leniency or any other special treatment."

Likewise, in the guilty plea agreement, Oshiro affirmed he understood his sentence was in the court's discretion, he had "not been promised or guaranteed any particular sentence by anyone," and he was not acting "by virtue of any promises of leniency." In light of the foregoing, Oshiro failed to allege specific facts indicating counsel was deficient or a reasonable probability he would not have pleaded guilty but for counsel's errors. *See Rubio v. State*, 124 Nev. 1032, 1038, 194 P.3d 1224, 1228 (2008)

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[1]We note that the same judge who took Oshiro's guilty plea also adjudicated Oshiro's postconviction habeas petition.

[2]As part of the guilty plea agreement, the State agreed to make no recommendation at sentencing and agreed to dismiss two other cases after sentencing.

(stating "a defendant may generally not repudiate [his] assertions, made in open court, that the plea is voluntary"). Accordingly, we conclude the district court did not err by denying this claim.

Second, Oshiro claimed counsel was ineffective due to a conflict of interest. Oshiro claimed counsel went to high school with his cousins and his cousins harassed counsel during high school. To demonstrate a conflict of interest resulted in the ineffective assistance of counsel, a petitioner must show the alleged conflict adversely affected counsel's performance. *See Clark v. State*, 108 Nev. 324, 326, 831 P.2d 1374, 1376 (1992); *see also Cuyler v. Sullivan*, 446 U.S. 335, 350 (1980). Oshiro's bare claim failed to specify how this alleged conflict adversely affected counsel's performance.[3] Thus, Oshiro failed to allege specific facts indicating counsel was deficient based on an actual conflict of interest. Accordingly, we conclude the district court did not err by denying this claim.

Oshiro also contended he should be entitled to withdraw his guilty plea because he was under the influence of alcohol, narcotics, and medication when he entered his plea. A district court may permit a petitioner to withdraw their guilty plea after sentencing where necessary "[t]o correct 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 presumes guilty pleas to be valid, with the defendant bearing the burden to prove that the plea was not entered knowingly or voluntarily." *Rubio*, 124 Nev. at 1038, 194 P.3d at 1228 (internal quotation marks omitted). "[T]his court will not overturn the

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[3]To the extent Oshiro alleged counsel missed a hearing, Oshiro did not specify when counsel missed a hearing or the nature of the hearing.

district court's determination on manifest injustice absent a clear showing of an abuse of discretion . . . ." *Id.* at 1039, 194 P.3d at 1229 (internal quotation marks omitted).

The district court found that the guilty plea agreement and plea canvass indicated Oshiro was not under the influence when he entered his plea. The record supports the district court's findings. During the plea canvass, Oshiro informed the trial-level court that he was not currently taking any medication, and had not recently used any drugs or substances including alcohol, that would make it difficult for him to understand the plea agreement or what was happening at the hearing. As previously discussed, Oshiro also stated he understood what was happening at the hearing, he understood everything in the plea agreement, and he was entering his plea freely and voluntarily.
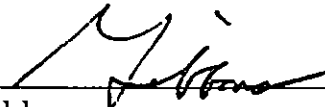
Likewise, in the guilty plea agreement, Oshiro affirmed he "was not now under the influence of any intoxicating liquor, a controlled substance or other drug which would in any manner impair [his] ability to comprehend or understand this agreement or the proceedings surrounding [his] entry of this plea." In his petition, Oshiro did not specify the nature of his purported drug use or how his drug use affected his ability to understand the proceedings. Oshiro's general claim that he was under the influence of alcohol, narcotics, and medication when he entered his plea is insufficient to demonstrate his plea was not entered knowingly or voluntarily. *See id.* at 1038, 194 P.3d at 1228 (stating "a defendant may generally not repudiate [his] assertions, made in open court, that the plea is voluntary"); *see also Miller v. State,* 89 Nev. 561, 563, 517 P.2d 182, 182 (1973) (holding a guilty plea by one under the influence of narcotics is not invalid unless the influence of narcotics is "such as to affect his competency

to stand trial or his capacity to understand the nature and consequences of his plea"). Accordingly, the district court did not abuse its discretion by denying this claim. *See Molina v. State*, 120 Nev. 185, 191, 87 P.3d 533, 537-38 (2004) ("A thorough plea canvass coupled with a detailed, consistent, written plea agreement supports a finding that the defendant entered the plea voluntarily, knowingly, and intelligently." (quotation marks omitted)).

For the foregoing reasons,[4] we

ORDER the judgment of the district court AFFIRMED.

_____, C.J.
Bulla

_____, J.
Gibbons

_____, J.
Westbrook

cc: Hon. Bita Yeager, District Judge
      Perry Brian Oshiro
      Attorney General/Carson City
      Clark County District Attorney
      Eighth District Court Clerk

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[4]To the extent Oshiro contended counsel was ineffective regarding a motion to withdraw plea, we conclude the district court did not err by denying such a claim. No such motion was filed below, and Oshiro failed to allege specific facts indicating counsel was deficient for failing to file such a motion or a reasonable probability such a motion would have been granted.