


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JUAN JOSE MEDINA-VEGA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 89643-COA

FILED

SEP 16 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Juan Jose Medina-Vega appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on July 1, 2022, and supplement. Second Judicial District Court, Washoe County; Egan K. Walker, Judge.

Medina-Vega argues the district court erred by denying his claims that counsel was ineffective in relation to his resentencing. 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*); *see also Gonzales v. State*, 137 Nev. 398, 403-04, 492 P.3d 556, 562 (2021) (holding a guilty plea does not waive a habeas claim that counsel was ineffective at sentencing). Both components of the inquiry must be shown, *Strickland*, 466 U.S. at 687, and the petitioner must demonstrate

the underlying facts by a preponderance of the evidence, *Means v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). 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).

Medina-Vega was convicted in 2008 of sexually motivated burglary with the use of a deadly weapon (burglary charge) and battery with intent to kill with the use of a deadly weapon. Regarding the burglary charge, the information and judgment of conviction indicated Medina-Vega was charged and convicted under NRS 205.060(2) (burglary), NRS 175.547 (sexually motivated), and NRS 193.165 (deadly weapon enhancement). At the time of the offense, NRS 205.060(2) provided that: "Except as otherwise provided in this section, a person convicted of burglary is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years."¹ NRS 205.060(2) (2007). However, Medina-Vega was sentenced to 6 to 15 years in prison on the burglary charge, and he subsequently filed a motion to correct an illegal sentence, arguing his sentence exceeded that authorized by the aforementioned statutes.

¹We note that the offense was committed on or around October 28, 2007, and that "the proper penalty is the penalty in effect at the time of the commission of the offense and not the penalty in effect at the time of sentencing." *State v. Second Jud. Dist. Ct. (Pullin)*, 124 Nev. 564, 567, 188 P.3d 1079, 1081 (2008).

The district court denied the motion, and this court reversed the district court's judgment on appeal. *See Medina-Vega v. State*, No. 81126-COA, 2021 WL 91100 (Nev. Ct. App. Jan. 8, 2021) (Order Reversing Order, Vacating Sentence, and Remanding). In particular, this court concluded the burglary sentence was facially illegal because NRS 205.060(2) permitted a maximum sentence of ten years in prison and such a sentence could not be enhanced by NRS 193.165. *Id.* at *1. Thus, this court vacated Medina-Vega's burglary sentence and remanded the matter for a new sentencing hearing. *Id.*

At the resentencing hearing, the State argued the judgment of conviction erroneously referenced NRS 205.060(2) and that a sentence of 6 to 15 years in prison was still warranted pursuant to NRS 205.060(4), which stated:

A person convicted of burglary who has in his possession . . . any . . . deadly weapon . . . at any time during the commission of the crime . . . is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years.

NRS 205.060(4) (2007). Defense counsel conceded that Medina-Vega should be resentenced on sexually motivated burglary with a deadly weapon but argued Medina-Vega should be sentenced to 4 to 15 years in prison rather than 6 to 15 years. The district court determined that (1) the judgment of conviction erroneously referenced NRS 205.060(2) and NRS 193.165 and that NRS 205.060(4) was the correct statutory reference for the burglary charge; (2) the error did not warrant dismissal because the record clearly

indicated Medina-Vega had pleaded guilty to sexually motivated burglary while armed with a deadly weapon; and (3) it would reimpose the 6-to-15 year sentence pursuant to NRS 205.060(4). As a result, the district court entered an amended judgment of conviction on October 27, 2021, that changed the statutory reference for the burglary charge to NRS 205.060(5).² Without explanation in the record before us, the district court subsequently entered a second amended judgment of conviction on January 3, 2022, reverting the statutory reference to NRS 205.060(2). However, prior to the instant appeal, the district court entered a third amended judgment of conviction which, among other things, changed the statutory reference for the burglary charge from NRS 205.060(2) back to NRS 205.060(5).

In his petition and supplement, Medina-Vega claimed resentencing counsel was ineffective for failing to object to the amended judgments of conviction and for requesting a facially illegal sentence of 4-to-15-years in prison. Medina-Vega's claims were premised on the underlying contention that he could not be sentenced pursuant to NRS 205.060(4) because the information referenced NRS 205.060(2) as the basis for the burglary charge. The district court held an evidentiary hearing on the petition, in which both trial-level counsel and resentencing counsel

²NRS 205.060 was amended in 2019, and the amendments recodified the offense of burglary while in possession of a deadly weapon from NRS 205.060(4) to NRS 205.060(5). See 2019 Nev. Stat., ch. 633, § 55, at 4425-27.

testified.³ In denying Medina-Vega's petition, the district court determined the information erroneously referenced NRS 205.060(2) and that a new amended judgment of conviction was warranted correcting the statutory citation. However, the district court found this error did not mislead or prejudice Medina-Vega because the record clearly showed Medina-Vega intended to plead guilty to sexually motivated burglary while in possession of a deadly weapon and that he understood the penalty range to be 2 to 15 years in prison. The district court further concluded that counsel was not ineffective because, had the error been pointed out, the sentencing range would not have been modified to reflect a potential maximum sentence of ten years in prison.

The district court's findings are supported by substantial evidence. Although the information and guilty plea memorandum referenced NRS 205.060(2) as the statutory basis for the burglary charge, the information stated Medina-Vega "did possess a deadly weapon while in the house or apartment," and Medina-Vega admitted during the plea canvass that he possessed a deadly weapon during the burglary and that he understood the penalty range for the burglary charge was 2 to 15 years in prison.⁴ Moreover, trial-level counsel testified that he did not discuss "the

³Medina-Vega did not testify in support of his petition. We note the same district court judge who presided over Medina-Vega's resentencing also heard Medina-Vega's postconviction habeas petition.

⁴We note that, at the time of the offense, NRS 205.060(4) was the only burglary provision that provided for a penalty range of 2 to 15 years in prison. See 2005 Nev. Stat., ch. 126, § 1, at 416.

standard 1 to 10 burglary” with Medina-Vega “because it wasn’t something that was on the table,” and resentencing counsel testified that Medina-Vega never indicated he understood the penalty range to be anything other than 2 to 15 years and that he agreed to seeking a prison sentence of 4 to 15 years at resentencing.

Given this history, the information’s erroneous reference to NRS 205.060(2) was not fatal, and the district court properly imposed sentence pursuant to then-NRS 205.060(4).⁵ *See* NRS 173.075(3) (“Error in the citation [of a statute the defendant is alleged to have violated] . . . is not a ground for dismissal of the . . . information or for reversal of a conviction if the error or omission did not mislead the defendant to the defendant’s prejudice.”); *see also Jennings v. State*, 116 Nev. 488, 490, 998 P.2d 557, 559 (2000) (stating a defendant must “be clearly informed of the nature and cause of the charges in order to permit adequate preparation of a defense”). Moreover, Medina-Vega’s sentence of 6 to 15 years in prison is within the parameters provided by the relevant statute, and resentencing counsel’s request for a 4-to-15 year prison sentence was not facially illegal. *See* 2005 Nev. Stat., ch. 126, § 1, at 416 (former NRS 205.060). Therefore, Medina-Vega failed to demonstrate counsel was deficient or a reasonable probability


⁵To the extent Medina-Vega contends this court’s prior order required him to be sentenced under NRS 205.060(2), we disagree. This court’s prior order merely recognized that Medina-Vega’s prior sentence was facially illegal because the listed penal statutes did not support the imposed sentence; this court did not address whether the information and judgment of conviction referenced the wrong penal statutes. *See Medina-Vega*, No. 81126-COA, 2021 WL 91100, at *1.

of a different outcome had counsel challenged his resentencing under NRS 205.060(4) or the amended judgments of conviction. *See Ennis v. State*, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006) ("Trial counsel need not lodge futile objections to avoid ineffective assistance of counsel claims."). Accordingly, we conclude the district court did not err by denying Medina-Vega's ineffective-assistance-of-counsel claims.

In light of the foregoing, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Egan K. Walker, District Judge
Oldenburg Law Office
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk