

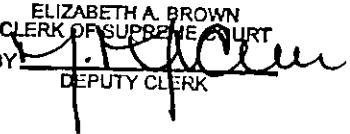
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY NOE MARTINEZ,
Appellant,
vs.
WARDEN OLIVER; THE STATE OF
NEVADA; AND ATTORNEY GENERAL,
Respondents.

No. 90030-COA

FILED

OCT 15 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Anthony Noe Martinez appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on October 2, 2024, and a motion to appoint counsel. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

Martinez argues the district court erred by denying his claims of ineffective assistance of 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*). Both components of the inquiry 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

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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).

In his petition, Martinez first claimed counsel was ineffective for failing to object to the prosecution's use of his codefendant's stipulation. Martinez's bare claim did not specify the nature of this stipulation, how it was used by the prosecution, or why there was a reasonable probability of a different outcome had counsel objected.¹ Therefore, Martinez failed to allege specific facts that are not belied by the record and, if true, would entitle him to relief. *See Chappell v. State*, 137 Nev. 780, 788, 501 P.3d 935, 950 (2021) (stating a petitioner alleging ineffective assistance of counsel "must *specifically explain* how his attorney's performance was objectively unreasonable" and "specifically articulate how counsel's deficient performance prejudiced him or her" (quotation marks omitted)). Accordingly, we conclude the district court did not err by denying this claim.

Second, Martinez also appeared to claim counsel was ineffective for failing to "follow up regarding evidence [and] crime scene pictures." Martinez's bare claim did not specify what this evidence included, what these pictures depicted, how counsel's performance was objectively unreasonable, or why there was a reasonable probability of a different

¹To the extent Martinez alleges additional facts on appeal that were not raised in his petition below, we decline to consider them in the first instance. *See State v. Wade*, 105 Nev. 206, 209 n.3, 772 P.2d 1291, 1293 n.3 (1989).

outcome but for counsel's error. Therefore, Martinez failed to allege specific facts that are not belied by the record and, if true, would entitle him to relief. *See id.* Accordingly, we conclude the district court did not err by denying this claim.

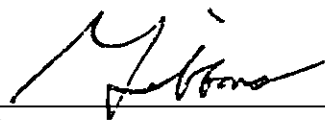
Third, Martinez claimed counsel was ineffective for failing to investigate jury misconduct. Martinez contended that a juror was seen talking to the victim's family or friends. Martinez's bare claim did not specify when this communication occurred or what an investigation into the juror's conduct would have revealed. *See Molina v. State*, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004) (stating a petitioner claiming counsel did not conduct an adequate investigation must specify what a more thorough investigation would have uncovered); *see also Lamb v. State*, 127 Nev. 26, 44-46, 251 P.3d 700, 712-13 (2011) (recognizing that not all extrinsic juror communications are prejudicial). Therefore, Martinez failed to allege specific facts that are not belied by the record and, if true, would entitle him to relief. *See Chappell*, 137 Nev. at 788, 501 P.3d at 950. Accordingly, we conclude the district court did not err by denying this claim.

Martinez also raised independent claims of prosecutorial and juror misconduct. These claims could have been presented to the trial court or raised on direct appeal and were therefore procedurally barred pursuant to NRS 34.810(1)(b). Martinez did not allege cause or actual prejudice to overcome the procedural bar, and we conclude the district court did not err by denying these claims.

For the foregoing reasons,² we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Jacqueline M. Bluth, District Judge
Anthony Noe Martinez
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²Martinez does not present any argument regarding the denial of his motion to appoint counsel. Thus, we conclude Martinez fails to demonstrate the district court abused its discretion by denying said motion.