

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FORREST KENT CROMWELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 90426-COA

FILED

JAN 13 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *W. Jones*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Forrest Kent Cromwell appeals from a district order denying a postconviction petition for a writ of habeas corpus filed on December 30, 2024.¹ Second Judicial District Court, Washoe County; Kathleen A. Sigurdson, Judge.

In his petition, Cromwell raised four claims that counsel were ineffective. 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

¹We note the district court granted Cromwell's petition as to an appeal deprivation claim in a separate order.

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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 postconviction habeas petition stemming from a guilty plea may allege only "that the plea was involuntarily or unknowingly entered or that the plea was entered without the effective assistance of counsel." NRS 34.810(1)(a); *but see Gonzales v. State*, 137 Nev. 398, 403-04, 492 P.3d 556, 562 (2021) (allowing claims that counsel was ineffective at sentencing in a postconviction petition for a writ of habeas corpus following a guilty plea). To warrant an evidentiary hearing, 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).

Three of the four ineffective-assistance-of-counsel claims raised by Cromwell were outside the scope of a postconviction habeas petition challenging a judgment of conviction entered pursuant to a guilty plea: (1) he had an excessive number of attorneys on his case; (2) the attorneys did not pass along information and evidence to the next counsel; and (3) there was a conflict of interest. These claims were outside the scope because Cromwell failed to allege counsels' purported deficiencies affected the entry of his plea—he failed to allege that his plea was involuntarily or unknowingly entered or that it was entered without the effective assistance of counsel. Therefore, we conclude the district court did not err by denying these claims without first conducting an evidentiary hearing.

In his fourth claim, Cromwell argued counsel was ineffective for making a promise which induced his guilty plea. Cromwell alleged counsel promised she would ask the district court for Cromwell's release pending sentencing in exchange for his signing the plea agreement. Notably,

Cromwell does not allege he was promised that he would be released pending sentencing. In his petition, Cromwell admitted counsel asked the district court for Cromwell's release pending sentencing, but the request was denied. Thus, Cromwell failed to demonstrate counsel's performance was deficient as she asked the district court to release Cromwell pending sentencing and as Cromwell does not allege she promised he would be released. Therefore, we conclude the district court did not err by denying this claim without first conducting an evidentiary hearing.

Next, Cromwell claimed his pretrial bail was excessive and the pretrial conditions placed on him constituted cruel and unusual punishment. These claims were outside the scope of a postconviction habeas petition challenging a judgment of conviction entered pursuant to a guilty plea because the claims failed to allege that his plea was involuntarily or unknowingly entered or that it was entered without the effective assistance of counsel. NRS 34.810(1)(a). Therefore, we conclude the district court did not err by denying the petition without first conducting an evidentiary hearing.²

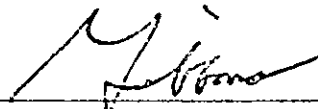
Finally, after filing his postconviction habeas petition, Cromwell filed a motion to appoint counsel. The district court struck Cromwell's motion because he was still represented by his appellate counsel. While this was improper, we conclude relief is not warranted on this issue. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970). Because the district court granted Cromwell leave to proceed in forma pauperis and his petition was a first petition not subject to summary

²As noted above, Cromwell also raised an appeal deprivation claim in his petition that was granted by the district court; this claim is not before this court on appeal.

dismissal, *see* NRS 34.745(1), (3). Cromwell met the threshold requirements for the appointment of counsel. *See* NRS 34.750(1); *Renteria-Novoa v. State*, 133 Nev. 75, 76, 391 P.3d 760, 760-61 (2017). However, the issues in this matter were not difficult, Cromwell was able to comprehend the proceedings, and discovery with the aid of counsel was not necessary. For these reasons, we conclude the appointment of counsel in this case was not warranted. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Kathleen A. Sigurdson, District Judge
Forrest Kent Cromwell
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk