IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WILLIAM RENE ALFARO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 90458-COA

FILED

MAR 24 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

William Rene Alfaro appeals from a district court order dismissing a postconviction petition for a writ of habeas corpus filed on July 1, 2024. Second Judicial District Court, Washoe County; Barry L. Breslow, Judge.

Alfaro was convicted, pursuant to a jury verdict, of seven counts of sexual assault against a child under 14 and three counts of lewdness with a child under 14. Thereafter, Alfaro filed a direct appeal,[1] and the supreme court reversed one of Alfaro's lewdness convictions but otherwise affirmed the judgment of conviction. *See generally Alfaro v. State*, 139 Nev. 216, 534 P.3d 138 (2023).

[1]On direct appeal, Alfaro argued (1) the State did not present sufficient evidence to support any of his convictions; (2) the trial court erred in admitting certain evidence; (3) the trial court erred in rejecting or providing certain jury instructions; (4) the trial court relied on impalpable and highly suspect evidence in determining his sentence; (5) his sentence constituted cruel and unusual punishment; and (6) cumulative error violated his constitutional right to a fair trial.

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In the instant petition, Alfaro contended that (1) the State introduced conflicting and prejudicial evidence at trial; (2) trial counsel was ineffective for several reasons; (3) the trial judge pressured him to go to trial and the jury was biased; (4) he was unable to assist counsel in his defense due to then-unknown diabetes complications; (5) the victim's testimony was conflicting and not sufficiently corroborated; (6) a detective made prejudicial statements during his forensic interview, which were played for the jury; (7) the State committed prosecutorial misconduct; (8) the State was biased and "twisted the most innocents facts" against him; (9) the victim presented contradictory or conflicting testimony; (10) the supreme court identified certain trial errors on direct appeal, and those errors prejudiced him when viewed together with the instant alleged errors; (11) the State failed to notice an expert witness as required by NRS 174.234; (12) two potential witnesses—the victim's mother and the victim's father's girlfriend—could have testified in his defense; and (13) cumulative error violated his constitutional right to a fair trial (hereinafter, Grounds 1-13, respectively).

Apart from Alfaro's claims of ineffective assistance of counsel and cumulative error, all of the aforementioned claims could have been, or were, presented to the trial court or raised on direct appeal and were thus procedurally barred absent a demonstration of good cause and actual prejudice.[2] *See* NRS 34.810(1)(b); NRS 34.810(4); *see also Pellegrini v. State*,

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[2]Alfaro argues Grounds 6, 8, and 12 "implicate ineffective assistance of counsel" and were thus not procedurally barred. We disagree. However, we note that, to the extent these claims "implicate[d] ineffective assistance of counsel," they were encompassed within Ground 2, which is not

117 Nev. 860, 883, 34 P.3d 519, 535 (2001) (holding "claims of ineffective assistance of counsel brought in a timely first post-conviction petition for a writ of habeas corpus are not subject to dismissal on grounds of waiver, regardless of whether the claims could have been appropriately raised on direct appeal"), *abrogated on other grounds by Rippo v. State*, 134 Nev. 411, 423 n.12, 423 P.3d 1084, 1097 n.12 (2018). Moreover, Alfaro does not contend on appeal that the district court erred in rejecting his good-cause claims.[3] Therefore, Alfaro has forfeited any such claim, *see Palmieri v. Clark County*, 131 Nev. 1028, 1033 n.2, 367 P.3d 442, 446 n.2 (2015), and we conclude the district court did not err by dismissing these claims.

To prevail on his claims of ineffective assistance of counsel, Alfaro had to demonstrate 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

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procedurally barred and is discussed below. Moreover, we recognize that the supreme court previously rejected a claim of cumulative error in Alfaro's direct appeal. *See Alfaro*, 139 Nev. at 230-31, 534 P.3d at 152. Nonetheless, because Alfaro contended that the errors identified on direct appeal should be cumulated with the errors alleged in the instant petition, we conclude his cumulative error claims were not barred pursuant to NRS 34.810(1)(b).

[3]In his petition, Alfaro appeared to contend he had good cause for presenting certain claims again because the supreme court's decision on direct appeal was flawed and that he had good cause for failing to present certain claims earlier due to the page limitations that applied to his opening brief on direct appeal.

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 novo. *Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005). 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).

In his petition, Alfaro claimed counsel was ineffective for failing to (1) call two witnesses—the victim's mother and the victim's father's girlfriend—who could have provided exculpatory information; (2) present evidence that he could not achieve an erection due to his medical conditions and thus could not have committed the alleged acts; (3) object when the State introduced facts not admitted into evidence during closing argument; (4) provide the video of the victim's forensic interview for the jury's consideration; (5) prevent certain portions of his forensic interview from being played for the jury; and (6) present a defense.[4] The district court concluded that Alfaro's claims of prejudice were conclusory in nature and, thus, he was not entitled to an evidentiary hearing on these claims.

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[4]To the extent Alfaro attempts to raise additional claims of ineffective assistance of counsel on appeal that were not presented in his petition below, we decline to consider them. *See State v. Wade*, 105 Nev. 206, 209 n.3, 772 P.2d 1291, 1293 n.3 (1989).

After review, we agree with the district court. Even assuming counsel performed deficiently, Alfaro did not allege, let alone explain why, there was a reasonable probability of a different outcome at trial but for counsel's purported errors. *See Chappell v. State*, 137 Nev. 780, 788, 501 P.3d 935, 950 (2021) (stating a petitioner alleging counsel was ineffective must "specifically articulate how counsel's deficient performance prejudiced him"). Moreover, Alfaro does not address the prejudice prong of his claims of ineffective assistance of counsel with specificity in his briefing on appeal.[5] *See id.* (stating "a petitioner's appellate briefs must address ineffective-assistance claims with specificity, not just in a *pro forma*, perfunctory way" (internal quotation marks omitted)). Therefore, we conclude the district court did not err in dismissing these claims without conducting an evidentiary hearing.[6]

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[5]In his opening brief, Alfaro contends the district court "cannot possibly adjudicate the issue of prejudice" without holding an evidentiary hearing. To the contrary, Alfaro was not entitled to an evidentiary hearing unless he alleged specific facts not belied by the record that, if true, would demonstrate he was entitled to relief (*i.e.*, would demonstrate counsel was deficient and that there was a reasonable probability of a different outcome at trial but for counsel's errors). *Strickland*, 466 U.S. at 687-88; *Hargrove*, 100 Nev. at 502-03, 686 P.2d at 225.

[6]Because the district court properly dismissed Alfaro's claims of ineffective assistance of counsel, we further conclude the district court properly dismissed Alfaro's claims of cumulative error. *See Burnside v. State*, 131 Nev. 371, 407, 352 P.3d 627, 651 (2015) (noting cumulative error claims require "multiple errors to cumulate").

On appeal, Alfaro contends the district court erred in refusing to allow him the opportunity to amend his petition. The State contends, and Alfaro does not dispute, that Alfaro did not request the appointment of counsel or seek leave to amend his petition. *See* NRS 34.750(5) ("No further pleadings may be filed except as ordered by the court."). Rather, Alfaro contends the district court was obligated to grant him an opportunity to amend his petition sua sponte because he filed his petition pro se.

Contrary to Alfaro's assertion, the district court was not required to sua sponte grant him an opportunity to amend his petition so he could more specifically plead his claims or change his claims so as to avoid the procedural bars. Rather, the district court had a duty to consider whether any or all of Alfaro's claims were procedurally barred and to dismiss any such claims. *See State v. Eighth Jud. Dist. Ct. (Riker)*, 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005); *see also* NRS 34.810(1) ("The court *shall dismiss a petition* . . . if the court determines that . . . [t]he petitioner's conviction was the result of a trial and the grounds for the petition could have been: (1) Presented to the trial court; (2) Raised in a direct appeal . . . ." (emphasis added)). And a district court may properly deny claims without holding an evidentiary hearing if a petitioner raises "bare or naked claims for relief, unsupported by any specific factual allegations that would, if true, have entitled him to" relief. *Hargrove*, 100 Nev. at 502-03, 686 P.2d at 225

(internal quotation marks omitted). Accordingly, we conclude Alfaro is not entitled to relief on this claim.[7]

For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.

_____, C.J.
Bulla

_____, J.
Gibbons

_____, J.
Westbrook

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[7]None of the authority Alfaro cites regarding civil complaints and the standards and rules applicable thereto hold or suggest that a district court must, sua sponte, grant a pro se petitioner an opportunity to amend a postconviction habeas petition after determining the petition raises bare and naked or procedurally barred claims. *Cf. Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (recognizing a pro se complaint filed pursuant to 42 U.S.C. § 1983 "must be held to less stringent standards than formal pleadings drafted by lawyers" (quotation marks omitted)); *Denton v. Hernandez*, 504 U.S. 25, 32-33 (1992) (stating "[a]n *in forma pauperis* complaint [filed pursuant to 28 U.S.C. § 1915] may not be dismissed . . . simply because the court finds the plaintiff's allegations unlikely"); *Buzz Stew, LLC v. City of North Las Vegas*, 124 Nev. 224, 228, 181 P.3d 670, 672 (2008) (stating a civil complaint should only be dismissed pursuant to NRCP 12(b)(5) "if it appears beyond a doubt that it could prove no set of facts, which, if true, would entitle it to relief"). Further, we reject Alfaro's contention that the Nevada Supreme Court's decision in *Mott v. Warden*, which predates Nevada's current statutory scheme for postconviction remedies, is dispositive of the matter. 91 Nev. 593, 594, 540 P.2d 1061, 1061 (1975) (holding a district court erred in summarily dismissing a habeas petition where the claim raised was "a proper subject for habeas corpus").

cc: Hon. Barry L. Breslow, District Judge
Richard F. Cornell
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk