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ELIZABETH A. BROWN
CLERK OF SUPREME COURT

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOAO CARDOSO, Appellant, vs. THE STATE OF NEVADA, Respondent.	No. 91469-COA

ORDER OF AFFIRMANCE

Joao Cardoso appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on December 18, 2024, and a supplement filed on May 23, 2025. Eighth Judicial District Court, Clark County; Tara D. Clark Newberry, Judge.

Cardoso was convicted, pursuant to a guilty plea, of aggravated stalking constituting domestic violence and misdemeanor battery constituting domestic violence. Cardoso filed the instant petition claiming that his guilty plea was the result of ineffective assistance of trial-level counsel and that trial-level counsel provided ineffective assistance at sentencing. The district court held an evidentiary hearing on the petition, in which Cardoso and trial-level counsel testified. Thereafter, the district court denied the petition.

First, Cardoso contends the district court erred by denying his claim that the ineffective assistance of counsel rendered his guilty plea unknowing and involuntary. A guilty plea is presumptively valid, and a petitioner carries the burden of establishing that the plea was not entered knowingly and intelligently. *Bryant v. State*, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986), *superseded by statute on other grounds as stated in Hart v.*

State, 116 Nev. 558, 1 P.3d 969 (2000); *Hubbard v. State*, 110 Nev. 671, 675, 877 P.2d 519, 521 (1994). In determining the validity of a guilty plea, this court looks to the totality of the circumstances. *State v. Freese*, 116 Nev. 1097, 1105, 13 P.3d 442, 448 (2000); *Bryant*, 102 Nev. at 271, 721 P.2d at 367. When raising a postconviction claim challenging the validity of a guilty plea, the petitioner must demonstrate a manifest injustice. *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"). "A guilty plea entered on advice of counsel may be rendered invalid by showing a manifest injustice through ineffective assistance of counsel." *Rubio v. State*, 124 Nev. 1032, 1039, 194 P.3d 1224, 1228 (2008).

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 the 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).

Cardoso claimed his guilty plea was not knowing and voluntary because trial-level counsel failed to investigate evidence relevant to his

defense and mitigation evidence. Specifically, Cardoso asserted trial-level counsel failed to investigate (1) Cardoso's work schedules, which would have shown he was working at the time of the stalking incidents; and (2) allegations that the victim committed acts of violence against Cardoso, threatened his fiancée, fabricated evidence, and had a history of child abuse and neglect. At the evidentiary hearing, counsel acknowledged Cardoso wanted investigation into his work schedules, but counsel thought the evidence was not a perfect alibi, given the number of incidents alleged over a long period of time. Counsel indicated he would have hired an investigator had the matter proceeded to trial.

In its oral pronouncements at the evidentiary hearing, the district court found trial-level counsel's performance was not deficient, reasoning that trial-level counsel's investigation at the time Cardoso decided to accept the guilty plea was reasonable. And although Cardoso testified he asked counsel to investigate his allegations against the victim, Cardoso did not claim he was unaware of the lack of investigation at the time he entered his guilty plea, and he fails to demonstrate further investigation into his work schedule or the allegations against the victim would have caused counsel to change the recommendation to plead guilty. *See Hill*, 474 U.S. at 59 (stating that, in guilty plea cases, whether a defendant is prejudiced by counsel's failure to investigate potentially exculpatory evidence "will depend on the likelihood that discovery of the evidence would have led counsel to change [the] recommendation as to the plea," which itself will depend in large part on "whether the evidence likely would have changed the outcome of a trial"). Thus, he failed to demonstrate he would not have pleaded guilty and would have insisted on going to trial but for the lack of counsel's investigation. Accordingly, we conclude the

district court did not err by denying this facet of Cardoso's plea-invalidity claim.

Cardoso further claimed his guilty plea was not knowing and voluntary because trial-level counsel refused to go to trial and coerced him into pleading guilty by promising him the trial-level court would sentence him to probation. In denying this facet of Cardoso's claim, the district court relied on the terms of Cardoso's plea agreement, which the district court found included acknowledgements that he had discussed any possible defenses and strategies with trial-level counsel, that he had discussed the consequences of pleading guilty, and that he was signing the plea agreement voluntarily. The district court also found that Cardoso's plea canvass demonstrated Cardoso entered his plea freely and voluntarily and that Cardoso did not make any statements during the canvass indicating trial-level counsel had disregarded exculpatory evidence or that he had been coerced into pleading guilty.

Cardoso did not include a copy of the plea agreement in the record on appeal, nor did he include a transcript of his change of plea hearing. *See* NRAP 30(b)(1) (requiring an appellant to provide "all transcripts that are necessary to" the appellate courts' review of the issues on appeal). "The burden to make a proper appellate record rests on appellant," *Greene v. State*, 96 Nev. 555, 558, 612 P.2d 686, 688 (1980); *accord* NRAP 30(b)(3), and we presume the missing portions of the record support the district court's decision, *see Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007). We therefore presume that the plea agreement and the transcript of the change of plea hearing supported the district court's findings. Moreover, trial-level counsel testified that he was willing to proceed to trial and never promised Cardoso

that he would receive probation. Accordingly, we conclude that the district court did not err in denying this claim.

Second, Cardoso claimed trial-level counsel was ineffective at sentencing because he failed to present argument regarding the aforementioned evidence and made "half-hearted" arguments at the sentencing hearing. To demonstrate ineffective assistance of counsel at sentencing, 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*, 466 U.S. at 687-88. The district court found that trial-level counsel attempted to mitigate Cardoso's sentence at the sentencing hearing. This finding is supported by the record.

Trial-level counsel argued for probation, noting that Cardoso's offenses, while serious, were nonviolent, that Cardoso had ceased contacting the victim, that Cardoso had no prior criminal convictions, and that Cardoso had already spent a significant period of time in custody, during which he learned better skills for handling conflicts. The district court—the same judge who presided over Cardoso's sentencing—further determined that, even if trial-level counsel had presented the mitigating evidence Cardoso identified in his petition, such evidence "would have been both irrelevant to [Cardoso's] admission of guilt for his offenses and unlikely to persuade this Court that he ought to be sentenced more leniently," considering the facts of the offense and Cardoso's violation of a pretrial stay-away order. Thus, Cardoso failed to demonstrate counsel's performance was deficient or a reasonable probability of a different outcome at sentencing had counsel presented the identified evidence. We therefore conclude the district court did not err in denying this claim.

Finally, Cardoso claimed he was entitled to habeas relief because the cumulative effect of trial-level counsel's errors undermined the reliability of his sentencing. Even were claims of cumulative error available in postconviction proceedings, *see McConnell v. State*, 125 Nev. 243, 259 n.17, 212 P.3d 307, 318 n.17 (2009), Cardoso has not identified multiple errors to cumulate.[1] Accordingly, we conclude the district court did not err by denying this claim. In light of the foregoing, we

ORDER the judgment of the district court AFFIRMED.

Bulla, C.J.

Gibbons, J.

Westbrook, J.

cc: Hon. Tara D. Clark Newberry, District Judge
VanBoskerck Law, Ltd.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

[1]To the extent Cardoso raises additional claims in his pro se notice of appeal, such claims are improperly raised, and we do not consider them. *See* NRAP 3(c) (providing the contents of a notice of appeal); *see also State v. Wade*, 105 Nev. 206, 209 n.3, 772 P.2d 1291, 1293 n.3 (1989) ("This court will not consider issues raised for the first time on appeal.").