IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRANDON ROBINSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78801-COA

FILED

FEB 18 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

Brandon Robinson appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.

Robinson argues the district court erred by denying a claim of ineffective assistance of counsel he raised in his September 4, 2018, petition. To prove ineffective assistance of counsel sufficient to invalidate a judgment of conviction based on a guilty plea, a petitioner must demonstrate his counsel's performance was deficient in that it fell below an objective standard of reasonableness, and resulting prejudice such that there is a reasonable probability, but for counsel's errors, 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, 988, 923 P.2d 1102, 1107 (1996). Both components of the inquiry must be shown. *Strickland v. Washington*, 466 U.S. 668, 697 (1984). We give deference to the 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).

Robinson claimed his counsel was ineffective for failing to properly litigate an assertion that he was not given notice of his right to appear and testify before the grand jury. Robinson acknowledged his counsel raised this issue in a pretrial petition for a writ of habeas corpus, but contended counsel improperly ceased litigation of the issue.

The district court found the litigation of Robinson's pretrial petition for a writ of habeas corpus ended when he decided to accept a plea offer and entered his guilty plea. The district court further found the record demonstrated the State provided the notice as required by NRS 172.241(2).

Given the record, the district court found Robinson failed to demonstrate his counsel's performance fell below an objective standard of reasonableness. The district court also found Robinson failed to demonstrate a reasonable probability of a different outcome had counsel performed further actions concerning the notice of his right to testify before the grand jury. The record supports the district court's findings, and we conclude the district court did not err by denying the petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

_____, C.J.
Gibbons

_____, J.
Tao

_____, J.
Bulla

cc: Hon. Jerry A. Wiese, District Judge
Brandon Robinson
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk