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ELIZABETH A. BROWN
CLERK OF SUPREME COURT

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SHAWQUINTE HALL, Appellant, vs. THE STATE OF NEVADA, Respondent.	No. 91240-COA

ORDER OF AFFIRMANCE

Shawquinte Hall appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on February 6, 2025. Eighth Judicial District Court, Clark County; Erika L. Mendoza, Judge.

Hall argues the district court erred by denying his claims of ineffective assistance of counsel without conducting an evidentiary hearing. To demonstrate ineffective assistance of 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*). To demonstrate prejudice regarding the decision to enter a guilty plea, a petitioner must show a reasonable probability that, 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—deficiency and prejudice—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).

First, Hall claimed counsel was ineffective for (1) advising him that he would get probation and not serve any time in prison, (2) failing to thoroughly explain the sentencing range he faced, and (3) failing to thoroughly explain that the trial-level court had discretion in imposing sentence and was not bound by the parties' recommendations. Each of these claims are belied by the record.

In the guilty plea agreement and at the plea canvass, Hall affirmed that no one had made any promises of leniency to get him to enter his plea and that he understood no one could promise him probation. He also affirmed that (1) he understood the offense to which he was pleading carried a minimum prison term of not less than one year and a maximum prison term of not more than six years; (2) he understood his sentence, including whether he received probation, was to be determined by the court in its discretion and that the court was not obligated to accept the parties' sentencing recommendation; and (3) that he had read the plea agreement in its entirety, understood its terms, and was satisfied with counsel's representation. Counsel also certified that, to the best of his knowledge and belief, Hall understood the consequences of pleading guilty as provided for in the plea agreement. In light of the foregoing, Hall failed to allege specific facts not belied by the record that, if true, would indicate counsel was deficient and a reasonable probability that Hall would not have pleaded guilty and would have insisted on going to trial but for counsel's

errors. *See Rubio v. State*, 124 Nev. 1032, 1038, 194 P.3d 1224, 1228 (2008) (stating "a defendant may generally not repudiate [his] assertions, made in open court, that the plea is voluntary"). Accordingly, we conclude the district court did not err by denying these claims without conducting an evidentiary hearing.

Second, Hall claimed counsel was ineffective for failing to advise him of the "potential for a maximum prison sentence" or that "a prison sentence was likely." Although counsel has a duty to inform a defendant of the direct consequences of their guilty plea, *see Nollette v. State*, 118 Nev. 341, 349, 46 P.3d 87, 93 (2002); *see also Sierra v. State*, 100 Nev. 614, 616, 691 P.2d 431, 433 (1984) (concluding a defendant may not have entered his guilty plea if he "had been provided with an accurate description of the full possible range of punishments for his offense"), Hall does not cite, and we have not found, any authority indicating counsel has a duty to provide an opinion on the most likely outcome at sentencing, *cf. Turner v. Calderon*, 281 F.3d 851, 881 (9th Cir. 2002) (recognizing that "uncertainty is inherent in predicting court decisions" and stating that "[c]ounsel cannot be required to accurately predict what the jury or court might find, but he can be required to give the defendant the tools he needs to make an intelligent decision" (quotation marks omitted)). Thus, Hall failed to allege specific facts indicating counsel's performance was deficient for failing give such an opinion.

To the extent Hall claimed counsel misadvised him as to the likelihood of a prison sentence because counsel was unaware of his criminal history at the time he entered his plea, even assuming that counsel performed

deficiently,[1] Hall failed to allege specific facts indicating he would not have pleaded guilty but for such advice. At the sentencing hearing, counsel stated that he had discussed Hall's criminal history with him that morning and that Hall "[knew] that he could face custody time today very easily." Despite this, Hall does not allege, and the record does not indicate, that he requested counsel move to withdraw his guilty plea or that he otherwise expressed dissatisfaction with the plea deal. In light of the foregoing, Hall failed to allege specific facts indicating a reasonable probability that he would not have pleaded guilty and would have insisted on going to trial but for counsel's errors.[2] Accordingly, we conclude the district court did not err by denying this claim without conducting an evidentiary hearing.

Third, Hall claimed counsel was ineffective for failing to review the presentence investigation report (PSI) with him prior to the day of sentencing. Hall did not allege the PSI was inaccurate, and he failed to specifically explain why counsel's performance was objectively unreasonable or why there was a

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[1]Hall did not explain how counsel misadvised him apart from his general contention that counsel told him he would get probation which, as previously discussed, is belied by the record. Moreover, "a mere inaccurate prediction, standing alone, would not constitute ineffective assistance." *Iaea v. Sunn*, 800 F.2d 861, 865 (9th Cir. 1986); *see also United States v. Gordon*, 151 F.4th 1090, 1098 (9th Cir. 2025) (stating an incorrect sentencing prediction constitutes deficient performance if the petitioner shows that counsel's prediction "was a gross mischaracterization of the likely outcome presented in the case, combined with the erroneous advice on the possible effects of going to trial" (internal quotation marks omitted)).

[2]We note that Hall's subjective assertion that he would not have entered his guilty plea is not dispositive of the prejudice inquiry. *See Lee v. United States*, 582 U.S. 357, 369 (2017) ("Courts should not upset a plea solely because of *post hoc* assertions from a defendant about how he would have pleaded but for his attorney's deficiencies.").

reasonable probability of a different outcome at sentencing had counsel reviewed the PSI with him earlier. *See Chappell v. State*, 137 Nev. 780, 788, 501 P.3d 935, 950 (2021) (stating that, to overcome the presumption that counsel performed effectively, "a petitioner must do more than baldly assert that his attorney could have, or should have, acted differently" (quotation marks omitted)). Accordingly, we conclude the district court did not err by denying this claim without conducting an evidentiary hearing.

Fourth, Hall claimed counsel was ineffective for failing to provide the sentencing court with sufficient mitigating information regarding his "background and positive aspects of his life" and for failing to explain to the sentencing court why his case was in bench warrant status "for so long." Hall's bare claim did not specify what mitigating information counsel failed to present at sentencing or any details regarding the bench warrant, such as why the warrant was issued, whether counsel had been retained at the time the warrant issued, how long the case was in warrant status, or why the case was in warrant status "for so long."[3] Moreover, although the sentencing court recognized that Hall's case was distinguishable from another case in which a different defendant's prolonged warrant status was due to the defendant's imprisonment out of state, the court stated that it was not inclined to grant Hall probation due to the "threat of this underlying case and his history."

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[3]At a hearing on the petition, postconviction counsel argued that the case was held in warrant status because Hall was "unaware of that status. He had hired [counsel], and [it] had been represented to him by [counsel] that he was going to handle the case. And he had not heard anything differently up until the time he was arrested on the warrant." Accepting counsel's representations, the sentencing court could have considered Hall's failure to confirm the status of his case and properly recognized that Hall's case was distinguishable from another case where a different defendant's prolonged warrant status was due to the defendant "going to prison in another case out of state."

The PSI indicates that Hall had previously been convicted of three felonies, one gross misdemeanor, and five misdemeanors, that he had his probation revoked once before, and that his criminal history consisted of "several instances of failure to appear, failure to comply, and/or failure to pay traffic citations." Regarding the instant offense, the police attempted to stop Hall for speeding; after they activated their lights and sirens, Hall accelerated to speeds up to 90 miles per hour, struck a vehicle, and collided with a center concrete median. At sentencing, counsel argued probation was warranted despite Hall's criminal history because (1) most of Hall's criminal history was old, (2) Hall had not had any issues since he moved to Arizona, (3) Hall worked with his mother's company and his mother relied on him heavily, (4) Hall had a baby on the way with his girlfriend, and (5) Hall understood his mistake and was remorseful. In light of the foregoing, Hall failed to allege specific facts indicating counsel's performance was deficient or that there was a reasonable probability of a different outcome at sentencing had counsel presented additional mitigating information or explained the case's prolonged warrant status. Accordingly, we conclude the district court did not err by denying this claim without conducting an evidentiary hearing.

Fifth, Hall claimed counsel was ineffective for failing to regularly meet with him or adequately communicate with him. To the extent Hall's claim was based on counsel's purported failure to communicate with him "regarding his risk at sentencing" or his failure to discuss the PSI with him prior to the day of sentencing, as previously concluded, Hall failed to allege specific facts not belied by the record that, if true, would entitle him to relief. To the extent Hall's claim was based on the general contention that counsel only spoke with him on the day he entered his plea and on the day of sentencing, Hall failed to specifically explain why counsel's performance was

objectively unreasonable or why there was a reasonable probability that he would not have entered his plea or that the outcome at sentencing would have been different had counsel communicated with him more. *See Chappell*, 137 Nev. at 788, 501 P.3d at 950; *see also Morris v. Slappy*, 461 U.S. 1, 13-14 (1983) (holding that a defendant is not entitled to a meaningful relationship with counsel). Accordingly, we conclude the district court did not err by denying this claim without conducting an evidentiary hearing.

Finally, Hall claimed he was prejudiced by counsel's cumulative deficiencies. Even if multiple instances of deficient performance could be cumulated for purposes of demonstrating prejudice, *see McConnell v. State*, 125 Nev. 243, 259 & n.17, 212 P.3d 307, 318 & n.17 (2009), Hall did not demonstrate multiple errors to cumulate. Accordingly, we conclude the district court did not err by denying this claim without conducting an evidentiary hearing.

For the foregoing reasons,[4] we

ORDER the judgment of the district court AFFIRMED.

Bulla, C.J.

Gibbons, J.

Westbrook, J.

[4]To the extent Hall raises arguments not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.

cc: Hon. Erika L. Mendoza, District Judge
Attorney General/Carson City
Clark County District Attorney
Waldo Law, LLC
Eighth District Court Clerk