

IN THE UTAH COURT OF APPEALS

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Aaron L. Helbach,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner and Appellant,)	
)	Case No. 20060750-CA
v.)	
)	F I L E D
State of Utah,)	(June 1, 2007)
)	
Respondent and Appellee.)	2007 UT App 191

Second District, Farmington Department, 040700291
The Honorable Michael G. Allphin

Attorneys: Aaron L. Helbach, Draper, Appellant Pro Se
Mark L. Shurtleff and Jeanne B. Inouye, Salt Lake
City, for Appellee

Before Judges Bench, McHugh, and Thorne.

PER CURIAM:

Aaron L. Helbach appeals the denial of post-conviction relief from his conviction of aggravated robbery, a first degree felony. Helbach claims the post-conviction court erred by denying his claim that the district court should have sua sponte ordered a competency evaluation before accepting the plea. In the absence of a competency petition, "[a] trial court must hold a competency hearing when there is 'a substantial question of possible doubt as to a defendant's competency at the time of the guilty plea.'" State v. Arquelles, 2003 UT 1, ¶49, 63 P.3d 731 (citation omitted). "In determining whether a defendant is competent to plead guilty, the trial court must consider whether the defendant has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and has a rational as well as factual understanding of the proceedings against him." State v. Holland, 921 P.2d 430, 433 (Utah 1996). Thus, "[t]he fact that a person is mentally ill, displays bizarre, volatile, and irrational behavior, or has a history of mental illness, does not mean that he or she is incompetent to stand trial." Jacobs v. State, 2001 UT 17, ¶16, 20 P.3d 382. In determining whether the trial court erred by not holding a competency hearing, a reviewing court considers the facts that

were before the trial court when the plea was entered. See id. at ¶18.

Helbach had the burden to prove by a preponderance of the evidence that a substantial question of possible doubt as to his competency existed at the time he pleaded guilty. He attached two exhibits to the post-conviction petition. The first was a military evaluation, prepared in 2001, and the second was a diagnostic evaluation, prepared on June 18, 2003, for use in sentencing in his criminal case. The military evaluation assessed Helbach's mental health, not his competency, and predated his guilty plea by two years. The diagnostic evaluation also assessed mental health, not competency, and was prepared two months after the guilty plea. Nothing appearing in the district court record or at the change-of-plea hearing would have created a substantial question of possible doubt about Helbach's competency. Helbach responded appropriately to the court's questions, affirmed his understanding of the written plea agreement, and acknowledged that he was knowingly and voluntarily pleading guilty. He advised his attorney of a possible additional charge, allowing counsel to obtain an agreement that the guilty plea could be withdrawn if the State filed the additional charge. The post-conviction court correctly determined that the facts before the district court at the time of the change of plea did not give rise to a substantial question of possible doubt about Helbach's competency.

Helbach's claim that his guilty plea was taken in violation of rule 11 of the Utah Rules of Criminal Procedure is inadequately briefed and without merit. A rule 11 violation, standing alone, is not sufficient to support post-conviction relief, and a petitioner must demonstrate that his guilty plea was not knowing and voluntary. See Salazar v. Warden, 852 P.2d 988, 992 (Utah 1993). In advance of his guilty plea, Helbach executed a detailed statement, which stated the elements of the offense, the factual basis for the guilty plea, the possible sentences, the rights being waived, and the time limit for moving to withdraw a guilty plea. The district court conducted a plea colloquy and also confirmed that Helbach had read the statement and discussed it with counsel. The post-conviction court did not err in determining that Helbach's plea was knowing, intelligent, and voluntary and in denying relief based upon alleged rule 11 violations.

Helbach next claims that the post-conviction court erred by denying relief based upon allegedly inappropriate police action resulting in a coerced confession and Miranda violations. A defendant who pleads guilty "is deemed to have admitted all of the essential elements of the crime charged and thereby waives all nonjurisdictional defects, including alleged pre-plea

constitutional violations." State v. Parsons, 781 P.2d 1275, 1278 (Utah 1989); see also State v. Hardy, 2002 UT App 244, ¶13, 54 P.3d 645. Having concluded that the post-conviction court did not err in determining that Helbach's guilty plea was knowing and voluntary, we do not consider these claims further.

Helbach also claims that the post-conviction court erred in denying relief based upon alleged ineffectiveness of trial counsel. To prevail, Helbach must demonstrate both that trial counsel's performance was deficient, and that the deficient performance resulted in prejudice. See Strickland v. Washington, 466 U.S. 668, 687 (1984). Helbach contends that his trial counsel was ineffective by failing to move to withdraw the guilty plea based upon the evidence of mental illness contained in the 2001 military evaluation or the 2003 diagnostic evaluation prepared between the time of the plea hearing and sentencing. Neither evaluation addressed his competency to enter a guilty plea. The State correctly notes that the diagnostic report found no thought disorder or serious mental illness. Helbach did not present sufficient proof to the post-conviction court that his trial counsel was deficient in failing to move to withdraw the guilty plea, and that court did not err in denying relief.

The remaining claims of ineffectiveness of trial counsel are both conclusory and inadequately briefed. Rule 24(a)(9) of the Utah Rules of Appellate Procedure "requires not just bald citation to authority but development of that authority and reasoned analysis based on that authority." State v. Thomas, 961 P.2d 299, 305 (Utah 1998). An issue is inadequately briefed "when the overall analysis of the issue is so lacking as to shift the burden of research and argument to the reviewing court." Id. We also reject Helbach's apparent challenge to rule 65C of the Utah Rules of Civil Procedure and his claim of "structural defect" as inadequately briefed. Accordingly, we do not consider these claims on the merits.

We affirm the denial of post-conviction relief.

Russell W. Bench,
Presiding Judge

Carolyn B. McHugh, Judge

William A. Thorne Jr., Judge