

IN THE UTAH COURT OF APPEALS

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Aaron Helbach,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner and Appellant,)	
)	Case No. 20080951-CA
v.)	
)	F I L E D
State of Utah,)	(December 10, 2009)
)	
Respondent and Appellee.)	2009 UT App 375

Second District, Ogden Department, 060900429
The Honorable Roger S. Dutson

Attorneys: Aaron L. Helbach, Gunnison, Appellant Pro Se
Mark L. Shurtleff and Brett J. DelPorto, Salt Lake
City, for Appellee

Before Judges Bench, Orme, and McHugh.

PER CURIAM:

Aaron Helbach was charged in the Second District Court for Weber County with three counts of aggravated robbery (the Weber County case). At about the same time, he was charged in the Second District Court for Davis County with two armed robberies (the Davis County case). In April 2003, Helbach pleaded guilty to one count of aggravated robbery in the Davis County case. In August 2003, he pleaded guilty to two counts of aggravated robbery in the Weber County case. In exchange for his guilty plea in the Weber County case, the State agreed to dismiss the remaining count and to recommend that any prison term run concurrently with any prison term imposed in the Davis County case. In the post-conviction proceedings underlying this appeal, Helbach collaterally challenged his Weber County convictions. Helbach earlier challenged his Davis County conviction in postconviction proceedings raising similar claims. We affirmed the dismissal of the post-conviction petition challenging the Davis County conviction. See Helbach v. State, 2007 UT App 191U (mem.) (per curiam).

Helbach claims that the district court erred in dismissing his petition on the State's motion without holding an evidentiary hearing. The claim is without merit. Helbach did not request an

evidentiary hearing, and there is nothing in the record demonstrating a need for an evidentiary hearing. The postconviction court did not err in resolving the case on the State's motion to dismiss.

Helbach also claims the postconviction court erred by denying his claim that the district court should have sua sponte ordered a competency evaluation before accepting his guilty pleas. 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. "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 that a substantial question of possible doubt as to his competency existed at the time he pleaded guilty. He attached a 2001 military evaluation and discharge papers to the postconviction petition filed in Weber County. He also relied upon these materials in his earlier Davis County postconviction petition.¹ The military evaluation assessed Helbach's mental health with regard to his continued military service, not his competency to stand trial, and it predated his guilty pleas by over two years. Nothing occurring at the change-of-plea hearing in the Weber County case 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 denied "any mental disease or impairment that would prevent him from making a knowing and voluntary plea." Accordingly, the postconviction court correctly determined that the facts before the district court at the time of the change of

¹Helbach did not attach the diagnostic evaluation prepared in June 2003 for use in sentencing in the Davis County case, although he had relied upon it in his post-conviction proceeding in Davis County.

plea in the Weber County case did not give rise to a substantial question of possible doubt about Helbach's competency.

Helbach also claims that the postconviction court erred in denying relief based upon ineffectiveness of his 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 request a competency evaluation based upon the evidence of mental illness contained in the 2001 military evaluation and discharge papers. He also faults counsel for relying upon the June 2003 diagnostic evaluation prepared for sentencing in the Davis County case, which found that Helbach did not meet the criteria for serious mental illness. He further claims that his counsel knew of his suicide attempt while he was in the Davis County jail. Helbach did not present sufficient proof to the postconviction court that his trial counsel was deficient in failing to seek a competency evaluation.

Helbach's argument that his guilty pleas were taken in violation of rule 11 of the Utah Rules of Criminal Procedure is without merit. A rule 11 violation, standing alone, is not sufficient to support postconviction 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 that set forth 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 confirmed that Helbach had read the statement, discussed it with counsel, and understood it. Helbach was clearly advised of the elements of aggravated robbery, the factual basis for his guilty pleas, and possible sentences. He was also correctly advised of the time limit for filing a motion to withdraw under the statute applicable at the time of the pleas. The postconviction court did not err in determining that Helbach's plea was knowing and voluntary and in denying relief based upon alleged rule 11 violations.

Helbach also claims that the postconviction court erred by denying relief based upon allegedly inappropriate police action resulting in a coerced confession. 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 the

guilty pleas were knowing and voluntary, we do not consider this claim and the related ineffectiveness of counsel claim.

Helbach's remaining claims 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. Therefore, we do not consider these claims on the merits. Accordingly, we affirm the denial of postconviction relief.

Russell W. Bench, Judge

Gregory K. Orme, Judge

Carolyn B. McHugh, Judge