

IN THE NEBRASKA COURT OF APPEALS

**MEMORANDUM OPINION AND JUDGMENT ON APPEAL
(Memorandum Web Opinion)**

STATE V. MEAD

NOTICE: THIS OPINION IS NOT DESIGNATED FOR PERMANENT PUBLICATION
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STATE OF NEBRASKA, APPELLEE,

V.

JASON C. MEAD, APPELLANT.

Filed September 29, 2026. No. A-26-175.

Appeal from the District Court for Hall County: ANDREW C. BUTLER, Judge. Affirmed.
Mitchell C. Stehlik, of Stehlik Law Firm, P.C., L.L.O., for appellant.
Michael T. Hilgers, Attorney General, and Austin N. Relph for appellee.

PIRTLE, WELCH, and PICCOLO, Judges.

PIRTLE, Judge.

INTRODUCTION

Jason C. Mead appeals his plea-based conviction for possession of a controlled substance in the district court for Hall County. He contends that his trial counsel was ineffective in various respects. Based on the reasons that follow, we affirm.

BACKGROUND

In April 2024, Mead was charged by information with distribution of a controlled substance. The charge arose from a February 17 traffic stop of Mead's vehicle by a Hall County sheriff's office deputy who found methamphetamine in Mead's car and on his person.

COMPETENCY DETERMINATIONS

On May 8, 2024, Mead's trial counsel filed a motion for determination of competency and a hearing to determine competency was held. In June, the district court found Mead incompetent

to stand trial and committed him to the Lincoln Regional Center for restoration of competency. Mead's competency was restored by November.

On May 13, 2025, Mead's trial counsel filed a second motion to determine competency and another hearing to determine competency was held. In June, the district court found Mead not competent to stand trial and ordered him committed to the Lincoln Regional Center for restoration of competency. In August, Mead's competency was restored and he was found competent to stand trial. Dr. Jennifer Cimpl Bohn, the clinical psychologist who found Mead competent the second time, reported that Mead understood the nature and object of the proceedings against him and could assist counsel in preparation of a defense.

MOTION TO SUPPRESS

On November 17, 2025, Mead filed a motion to suppress all evidence obtained from the search of his car and person following the traffic stop. At the suppression hearing, the State called Deputy Aron Zumaya, who testified regarding his traffic stop of Mead and subsequent searches of Mead's car and person. Zumaya testified that on February 17, 2024, he observed a vehicle fail to signal a lane change and a turn. Zumaya conducted a traffic stop on the vehicle, which was driven and owned by Mead, whom he recognized from past contacts.

When Zumaya approached the vehicle, he asked Mead if there was anything illegal in the vehicle, which Mead denied. Following his initial contact with Mead, Zumaya requested the assistance of another officer, due to Mead's known history of associating with people who used narcotics. After requesting assistance, Zumaya asked Mead for consent to search his vehicle and Mead gave his consent.

During the search of Mead's vehicle, Zumaya found a black cloth bag on the back seat floorboard containing a Ziploc bag with 28 smaller blue transparent bags, a scale covered in a white crystalline-like residue, a glass pipe with burnt brown and white residue, and two bags containing a white crystalline substance. From Zumaya's experience and training, he believed the white substance was methamphetamine, which was later confirmed through a field test.

After Zumaya found the methamphetamine in Mead's car, he placed Mead under arrest. Zumaya then asked Mead if he had anything illegal on his person; Mead informed Zumaya that he had something in his right front pocket. Zumaya reached into the pocket and pulled out a transparent baggie with a white crystalline-like substance inside. The substance was later identified as methamphetamine. On cross-examination, Zumaya testified that Mead appeared to understand what was going on and was coherent throughout their encounter.

The court overruled Mead's motion to suppress. The court found that Zumaya had a legitimate basis to stop Mead's vehicle, a lawful basis for the subsequent search; namely, Mead's consent, and sufficient grounds for Mead's arrest.

PLEA AND SENTENCING

The State filed a second amended information on December 9, 2025, charging Mead with possession of a controlled substance. Mead entered into a plea agreement with the State, and pursuant to the plea agreement, Mead pled no contest to possession of a controlled substance. The court adopted the evidence presented at the suppression hearing as the factual basis for the plea.

During the plea hearing, Mead affirmed he understood all his rights, what he was being charged with, and the possible penalties. Mead informed the court that he understood the plea agreement and wished to proceed with it. Mead stated he had time to speak to his attorney about the plea. Mead stated that his plea was entered freely, knowingly, intelligently, and voluntarily. The court accepted Mead's no contest plea to possession of a controlled substance. The court ordered an updated presentence investigation report (PSI) and scheduled sentencing.

The court sentenced Mead to 36 months' probation to be served concurrently with another term of 36 months' probation in a second unrelated case.

ASSIGNMENTS OF ERROR

On appeal, Mead assigns that his trial counsel was ineffective for (1) failing to present evidence that he did not consent to a search during the hearing on the motion to suppress, (2) failing to investigate and pursue a potential defense of not guilty by reason of insanity, (3) failing to investigate whether he understood the proceedings after a finding that he was competent to proceed, and (4) forcing him to accept a plea agreement.

STANDARD OF REVIEW

Whether a claim of ineffective assistance of counsel may be determined on direct appeal is a question of law. *State v. Clark*, 315 Neb. 736, 1 N.W.3d 487 (2024). In reviewing claims of ineffective assistance of counsel on direct appeal, an appellate court decides only whether the undisputed facts contained within the record are sufficient to conclusively determine whether counsel did or did not provide effective assistance and whether the defendant was or was not prejudiced by counsel's alleged deficient performance. *Id.*

ANALYSIS

Through different counsel, Mead contends that his trial counsel provided ineffective assistance in four ways. When a defendant's trial counsel is different from his or her counsel on direct appeal, the defendant must raise on direct appeal any issue of trial counsel's ineffective performance which is known to the defendant or is apparent from the record; otherwise, the issue will be procedurally barred in a subsequent postconviction proceeding. *State v. Vazquez*, 319 Neb. 192, 21 N.W.3d 615 (2025).

To raise an ineffective assistance of counsel claim on direct appeal, the defendant must allege deficient performance with enough particularity for (1) an appellate court to make a determination of whether the claim can be decided upon the trial record and (2) a district court later reviewing a petition for postconviction relief to recognize whether the claim was brought before the appellate court. *Id.* When a claim of ineffective assistance of counsel is raised in a direct appeal, the appellant is not required to allege prejudice; however, an appellant must make specific allegations of the conduct that he or she claims constitutes deficient performance by trial counsel. *Id.*

Once raised, an appellate court will determine whether the record on appeal is sufficient to review the merits of the ineffective performance claims. *Id.* The record on direct appeal is sufficient to conclusively determine a claim of ineffective assistance of counsel if it establishes either that trial counsel's performance was not deficient, that the appellant will not be able to

establish prejudice as a matter of law, or that trial counsel's actions could not be justified as a part of any plausible trial strategy. *Id.* Conversely, an ineffective assistance of counsel claim will not be addressed on direct appeal if it requires examination of facts not contained in the record. *Id.*

To prevail on a claim of ineffective assistance of counsel under *Strickland v. Washington*, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984), the defendant must show that his or her counsel's performance was deficient and that this deficient performance actually prejudiced the defendant's defense. *State v. Vazquez, supra*. To show that counsel's performance was deficient, a defendant must show that counsel's performance did not equal that of a lawyer with ordinary training and skill in criminal law. *Id.* To show prejudice in a claim of ineffective assistance of counsel, the defendant must demonstrate a reasonable probability that but for counsel's deficient performance, the result of the proceeding would have been different. *Id.* When a conviction is based upon a plea of no contest, the prejudice requirement for an ineffective assistance of counsel claim is satisfied if the defendant shows a reasonable probability that but for the errors of counsel, the defendant would have insisted on going to trial rather than pleading no contest. *State v. Miller*, 315 Neb. 951, 2 N.W.3d 345 (2024).

FAILURE TO PRESENT EVIDENCE

Mead first assigns that his trial counsel was ineffective because counsel failed to present evidence that he did not consent to a search at the motion to suppress hearing. We find that this assigned error does not comply with the specificity set forth in *State v. Rupp*, 320 Neb. 502, 28 N.W.3d 74 (2025). An assignment of error must, standing alone, permit an appellate court to determine if the claim can be decided upon the trial record and also permit a district court to later recognize that the claim was raised on direct appeal. *Id.* The argument section of the brief is to elaborate on these claims by discussing legal authority and its application to the trial record, not to set forth, for the first time what the allegedly deficient act was. *Id.*

Mead's assignment of error does not identify what evidence his trial counsel should have presented regarding his consent or lack thereof at the suppression hearing. See *State v. Bedford*, 31 Neb. App. 339, 980 N.W.2d 451 (2022) (ineffective assistance of counsel claim alleging failure to present evidence without specifically identifying the evidence was not sufficiently alleged). Without scouring the brief, we are unable to discern the allegedly deficient performance that made Mead's counsel ineffective. Thus, we do not address this assigned error, and it is not preserved for postconviction review.

FAILURE TO INVESTIGATE AND PURSUE INSANITY DEFENSE

Mead next assigns that his trial counsel was ineffective because counsel failed to investigate and pursue a not guilty by reason of insanity defense. The defense of insanity has two elements: (1) that the defendant had a mental disease at the time of the acts charged; and (2) that this mental disease impaired his or her ability to such an extent that either (i) he or she did not understand the nature and consequences of what he or she was doing; or (ii) he or she did not know the difference between right and wrong with respect to what he or she was doing. *State v. Brennauer*, 314 Neb. 782, 993 N.W.2d 305 (2023). Additionally, Neb. Rev. Stat. § 29-2203(1) (Reissue 2016) provides that:

Any person prosecuted for an offense may plead that he or she is not responsible by reason of insanity at the time of the offense and in such case the burden shall be upon the defendant to prove the defense of not responsible by reason of insanity by a preponderance of the evidence.

We determine the record is insufficient to review this claim. There is little information within the record pertaining to Mead's mental state at the time of the charged offense and whether he understood the nature and consequences of what he was doing or the difference between right and wrong with respect to what he was doing. The only information from the record as to Mead's mental state is from Zumaya's testimony at the suppression hearing that Mead appeared coherent and understood what was occurring throughout their interaction. This is not enough to make any determination of Mead's mental state at the time of the traffic stop.

Further, there is nothing in the record about Mead's trial counsel investigating or pursuing, or not investigating or pursuing, an insanity defense. Therefore, we conclude that the record is insufficient to address this assignment on direct appeal.

FAILURE TO INVESTIGATE FOLLOWING FINDING OF COMPETENCY

Mead assigns that his trial counsel was ineffective because counsel failed to investigate whether he understood the proceedings after a finding that he was competent to proceed. A person is competent to plead or stand trial if he or she has the capacity to understand the nature and object of the proceedings against him or her, to comprehend his or her own condition in reference to such proceedings, and to make a rational defense. *State v. Hessler*, 295 Neb. 70, 886 N.W.2d 280 (2016). The test of mental capacity to plead is the same as that required to stand trial. *Id.*

A court is not required to make a competency determination in every case in which a defendant seeks to plead guilty or to waive his or her right to counsel; a competency determination is necessary only when a court has reason to doubt the defendant's competence. *Id.* In order to demonstrate prejudice from counsel's failure to investigate competency and for failing to seek a competency hearing, the defendant must demonstrate that there is a reasonable probability that he or she was, in fact, incompetent and that the trial court would have found him or her incompetent had a competency hearing been conducted. *Id.*

Based upon our review of the record, it is evident that Mead understood the nature and object of the proceedings, was able to comprehend his own condition, and was able to make a rational defense. While the issue of Mead's competency was raised twice, the district court found it was restored both times, and the clinical psychologist opined that Mead understood the proceedings against him when his competency was restored the second time. At the time of his plea, Mead's responses to the court's questioning were clear and understood. The record demonstrated Mead had the capacity to understand the proceedings, was not incompetent, that he understood he was at the hearing to enter a plea, and that he comprehended the consequences of his actions. Consequently, Mead's counsel was not ineffective in failing to investigate whether he understood the proceedings after a finding that he was competent to proceed and, thus, this claim fails.

PRESSURE TO ACCEPT PLEA

In his last assignment of error, Mead alleges his trial counsel was ineffective because counsel forced him to accept a plea. We determine the record is sufficient to refute this claim on direct appeal.

At the plea hearing, Mead affirmed he understood the plea agreement and wished to proceed with it. Mead stated he had time to speak to his attorney about the plea. Mead stated that his plea was entered freely, knowingly, intelligently, and voluntarily. As the Nebraska Supreme Court has noted, a defendant cannot secure relief by recanting assurances made to the trial court during the sanctity of a full and formal court proceeding “‘after the doors of the prison clang shut.’” *State v. Vanderpool*, 286 Neb. 111, 118, 835 N.W.2d 52, 58 (2013) (quoting *State v. Scholl*, 227 Neb. 572, 419 N.W.2d 137 (1988)). Because Mead’s specific representations to the district court refute his claim, we determine this assignment fails.

CONCLUSION

We conclude that Mead’s ineffective assistance of trial counsel claims either fail, are not sufficiently raised on appeal, or are unable to be decided on direct appeal. We therefore affirm Mead’s conviction for possession of a controlled substance.

AFFIRMED.