

IN THE SUPREME COURT OF THE STATE OF NEVADA

LEONARD JOE TODACHEENE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 44277

**FILED**

JUN 16 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

This is an appeal from an order of district court denying appellant's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

On July 30, 2002, appellant Leonard Joe Todacheene was convicted, pursuant to a guilty plea, of attempted sexual assault (count I) and battery with substantial bodily harm (count II). The district court sentenced Todacheene to serve a prison term of 32 to 144 months for count I and a consecutive prison term of 12 to 36 months for count II. Todacheene filed a direct appeal, and this court affirmed the judgment of conviction.<sup>1</sup>

On January 23, 2004, Todacheene filed a proper person post-conviction petition for a writ of habeas corpus. The State opposed the petition. The district court appointed counsel to represent Todacheene, and counsel supplemented the petition. The State filed a response to the

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<sup>1</sup>Todacheene v. State, Docket No. 39916 (Order of Affirmance, July 9, 2003).

supplemental petition. After conducting an evidentiary hearing, the district court denied the petition. Todacheene filed this timely appeal.

Todacheene contends that the district court erred in denying his petition because his trial counsel was ineffective. Specifically, Todacheene argues that his counsel was ineffective in failing to advise him "that by waiving his Fifth Amendment rights under the plea he would be forced to provide information to the psychosexual evaluator" and the Division of Parole and Probation. Todacheene also argues that his counsel was ineffective for failing to advise him of the right to have an attorney present at the psychosexual evaluation and for failing to attend the evaluation because it was a critical stage of the proceedings.

To state a claim of ineffective assistance of counsel sufficient to invalidate a judgment of conviction, a defendant must demonstrate that counsel's performance fell below an objective standard of reasonableness, and that counsel's errors prejudiced the defense.<sup>2</sup> The court need not consider both prongs of the ineffective-assistance test if the defendant makes an insufficient showing on either prong.<sup>3</sup> After reviewing the record on appeal, we conclude that the district court did not err in denying the petition because either trial counsel was not deficient or Todacheene was not prejudiced as a result of counsel's alleged failures.

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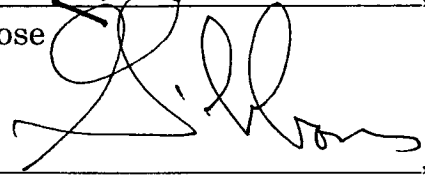
<sup>2</sup>See Strickland v. Washington, 466 U.S. 668 (1984); Warden v. Lyons, 100 Nev. 430, 683 P.2d 504 (1984).

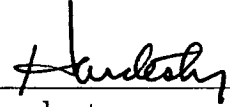
<sup>3</sup>Strickland, 466 U.S. at 697.

Having considered Todacheene's contentions and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Hardesty

cc: Hon. Donald M. Mosley, District Judge  
Kirk T. Kennedy  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk