

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE EASLEY, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46685

FILED

MAY 19 2006

MANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Jose Easley's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Lee A. Gates, Judge.

The district court convicted Easley, pursuant to a jury verdict, of attempted murder with the use of a deadly weapon. It sentenced Easley to serve two consecutive prison terms of 56 to 140 months. This court affirmed the judgment of conviction on direct appeal.¹

Easley filed a timely proper person post-conviction petition for a writ of habeas corpus. The State moved for dismissal, and Easley filed an amended petition. The district court appointed counsel, who filed a supplemental petition. After hearing argument, the district court denied the petition. This appeal follows.

¹Easley v. State, Docket No. 42316 (Order of Affirmance and Limited Remand to Correct the Judgment of Conviction, July 23, 2004).

Easley contends that the district court erred by denying his petition without first conducting an evidentiary hearing. "A post-conviction habeas petitioner is entitled to an evidentiary hearing 'only if he supports his claims with specific factual allegations that if true would entitle him to relief.'"²

Easley claims that trial counsel was ineffective for failing to advise him to testify on own behalf after the jury learned that he had previously been convicted of a felony. To state a claim of ineffective assistance of counsel sufficient to invalidate a judgment of conviction, a petitioner must demonstrate that counsel's performance fell below an objective standard of reasonableness.³ A petitioner must further establish a reasonable probability that, in the absence of counsel's errors, the results of the proceedings would have been different.⁴ The court can dispose of a claim if the petitioner makes an insufficient showing on either prong.⁵

Here, considering the overwhelming evidence of his guilt, Easley has failed to demonstrate a reasonable probability that the trial

²Means v. State, 120 Nev. 1001, 1016, 103 P.3d 25, 35 (2004) (quoting Thomas v. State, 120 Nev. 37, 44, 83 P.3d 818, 823 (2004)).

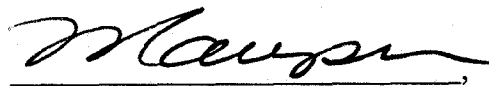
³See Strickland v. Washington, 466 U.S. 668 (1984); Warden v. Lyons, 100 Nev. 430, 683 P.2d 504 (1984).

⁴Id.

⁵Strickland, 466 U.S. at 697.

result would have been different if he had testified on his own behalf. Accordingly, we conclude that the district court did not err in determining that an evidentiary hearing was unnecessary, and we

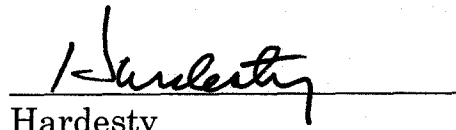
ORDER the judgment of the district court AFFIRMED.

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

cc: Hon. Lee A. Gates, District Judge
Goodman Brown & Premsrirut
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk