

IN THE SUPREME COURT OF THE STATE OF NEVADA

RAYFORD CARLOS WILLIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 51220

FILED

FEB 20 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

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

On June 21, 2006, the district court convicted appellant Rayford Carlos Willis, pursuant to a jury verdict, of robbery. The district court sentenced appellant to serve a term of 28 to 96 months in the Nevada State Prison. This court affirmed appellant's judgment of conviction and sentence on appeal. Willis v. State, Docket No. 47587 (Order of Affirmance, May 30, 2007). The remittitur issued on August 14, 2007.

On October 23, 2007, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On February 11, 2008, the district court denied appellant's petition. This appeal followed.

In his petition, appellant appeared to claim that the victim lied about viewing his face, that the State failed to preserve exculpatory evidence, that the State manipulated the victim's testimony, that there was racial and gender discrimination in the jury selection, and that he did not know his co-defendant prior to the arrest. He also claimed that he was denied a photo line-up and a lie detector test. These claims could have been raised in appellant's direct appeal, and appellant failed to demonstrate good cause for his failure to do so. NRS 34.810(1)(b); see also Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994), overruled on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999). Therefore, the district court did not err in denying these claims.

Next, appellant claimed that there was insufficient evidence of his guilt because the victim's identification was unreliable and there was no physical evidence of the crime. Appellant also claimed that his due process rights were violated because there was only one African-American person on the jury. This court considered and rejected these claims on direct appeal. The doctrine of law of the case prevents further litigation of these issues and cannot be avoided by more detailed and precisely focused arguments. See Hall v. State, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975). Therefore, the district court did not err in denying these claims.

Next, appellant claimed that he received ineffective assistance of trial counsel. To state a claim of ineffective assistance of counsel sufficient to invalidate a judgment of conviction, a petitioner must demonstrate that counsel's performance was deficient in that it fell below an objective standard of reasonableness, and prejudice such that counsel's

errors were so severe that they rendered the jury's verdict unreliable. Strickland v. Washington, 466 U.S. 668, 687-88, 694, (1984); Warden v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984). The court need not address both components of the inquiry if the petitioner makes an insufficient showing on either one. Strickland, 466 U.S. at 697.

First, appellant claimed that his trial counsel was ineffective for failing to call Bill Mason to testify. Appellant claimed that Bill Mason was an investigator for the Public Defender's Office and could testify that the court reporter incorrectly transcribed the victim's testimony at the preliminary hearing. Appellant claimed that the victim testified at the preliminary hearing that appellant had on red clothes during the incident, but that the court reporter recorded that the victim stated he had on black. Appellant failed to demonstrate that he was prejudiced. At trial, the victim testified that he saw appellant's face during the robbery and was certain that appellant was one of the persons who robbed him. Therefore, the district court did not err in denying this claim.

Second, appellant claimed that his trial counsel was ineffective for failing to object to the State's manipulation of the victim's testimony. Appellant claimed that the State during trial, manipulated the victim to testify that he saw appellant's face during the robbery and that he saw the color of appellant's jacket. Appellant failed to demonstrate that his trial counsel was deficient or that he was prejudiced. There is nothing in the record to indicate that the State manipulated or coerced the victim's testimony. Further, approximately 20 minutes after the incident occurred, the victim identified appellant as the culprit and told the police that he had a good look at appellant's face during the robbery. Thus, the

victim had the opportunity to identify appellant prior to the trial. Therefore, the district court did not err in denying this claim.

Third, appellant appeared to claim that his trial counsel was ineffective for failing to object when the State used inconsistent theories of the crime to prove his guilt. Appellant claimed that the State used a “not present theory” which was inconsistent with the State charging him as a co-conspirator and instructing the jury on co-conspirator liability. Appellant failed to demonstrate that his trial counsel was deficient or that he was prejudiced. The State’s theory of the case was that appellant, along with a co-defendant, robbed the victim together. Further, the victim testified that appellant and the co-defendant were the persons that robbed him. Therefore, the district court did not err in denying this claim.

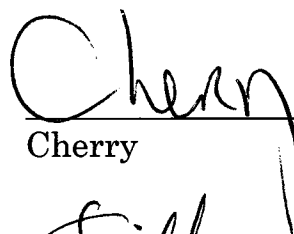
Fourth, appellant claimed that his trial counsel was ineffective for failing to adequately prepare for trial. Appellant claimed that had his trial counsel investigated all of the above claims prior to trial, he would not have been found guilty. Appellant failed to demonstrate that he was prejudiced. As appellant failed to demonstrate that any of the above claims had merit, appellant failed to demonstrate how a more thorough preparation would have had a reasonable probability of altering the outcome of the trial. Therefore, the district court did not err in denying this claim.


Finally, it appears that appellant claimed he was actually innocent, based on the violations discussed previously. For the reasons discussed previously, appellant failed to demonstrate that he was actually innocent. See generally Mitchell v. State, 122 Nev. 1269, 1273-74, 149

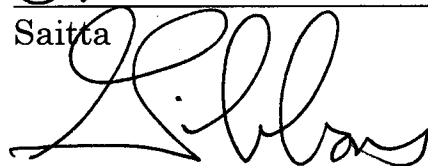
P.3d 33, 36, (2006) (citing Bousley v. United States, 523 U.S. 614, 623-24 (1998)). Therefore, the district court did not err in denying this claim.

Having reviewed the record on appeal and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. David Wall, District Judge
Rayford Carlos Willis
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk