


IN THE SUPREME COURT OF THE STATE OF NEVADA

JERRY LEIGH MILLER A/K/A JERRY
LEIGH MILLER, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52287

FILED

JAN 07 2010

TRACEE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Jerry Leigh Miller's timely, first post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Kenneth C. Cory, Judge.

Miller contends that the district court abused its discretion by denying his claims that his trial counsel was ineffective for failing to (1) investigate, (2) file pretrial motions, (3) ask voir dire questions, (4) present an opening statement, (5) call corroborating witnesses, (6) effectively confront and cross-examine the State's witnesses, (7) object to the State's cross-examination regarding his stale felony convictions, and (8) develop an alternative explanation for the money that was found in his pocket.

The district court conducted an evidentiary hearing and found that the case would have been much closer if Miller had listened to defense counsel and not testified and that Miller's allegations, taken either by themselves or as a whole, did not rise to a level that would trigger a finding of ineffective assistance of counsel. See Strickland v. Washington, 466 U.S. 668, 687 (1987) (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, and that the petitioner was prejudiced by counsel's performance).

Our review of the record, particularly the trial and evidentiary hearing transcripts, reveals that the district court's findings are supported by substantial evidence and are not clearly wrong, see Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994) (the district court's factual findings are entitled to deference when reviewed on appeal). Accordingly, we conclude that Miller has failed to demonstrate that the district court erred in denying his petition, and we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Kenneth C. Cory, District Judge
Terrence M. Jackson
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk