

IN THE SUPREME COURT OF THE STATE OF NEVADA

MATTHEW JORDAN HUTCHINSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52930

FILED

MAR 10 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Younes
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus. Sixth Judicial District Court, Pershing County; Richard Wagner, Judge.

Appellant argues that his trial counsel was ineffective because the public defender's office had a conflict of interest in representing him as the office represented the codefendant in an unrelated juvenile court matter. Appellant also argues that the conflict of interest caused the public defender's office to violate RPC 1.7 and 1.9.

Appellant fails to demonstrate that trial counsel's performance was deficient in that it fell below an objective standard of reasonableness, and fails to demonstrate resulting prejudice such that there is a reasonable probability that, but for counsel's errors, petitioner would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996). Both components of the inquiry must be shown. Strickland v. Washington, 466 U.S. 668, 697 (1984).

First, appellant fails to demonstrate that an actual conflict of interest existed. Strickland, 466 U.S. at 692 (citing Cuyler v. Sullivan, 446 U.S. 335, 348, 350 (1980)). Appellant fails to demonstrate that the

brief time frame in which the public defender's office represented both him for the murder charge and his codefendant for an unrelated juvenile court matter adversely affected his counsel's performance or created a situation conducive to divided loyalties. Id.; see also Clark v. State, 108 Nev. 324, 326, 831 P.2d 1374, 1376 (1992).

Second, appellant fails to demonstrate a reasonable probability that he would not have pleaded guilty and would have insisted on going to trial given that he admitted to the murder and the State agreed to the following in exchange for a guilty plea: withdraw the deadly weapon enhancement, forgo seeking charges related to a drive-by shooting, and concur with the sentencing recommendation made by probation and parole. Therefore, appellant fails to demonstrate that he was prejudiced by a conflict of interest or due to any violation of RPC 1.7 or RPC 1.9.

The district court determined that appellant's trial counsel was not ineffective and substantial evidence supports that determination. Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994) (noting that a district court's factual findings regarding a claim of ineffective assistance of counsel are entitled to deference when reviewed on appeal). Therefore, the district court did not err in denying the petition.

Having considered appellant's contentions and concluding that they are without merit, we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Richard Wagner, District Judge
Lockie & Macfarlan, Ltd.
Attorney General Catherine Cortez Masto/Carson City
Pershing County District Attorney
Pershing County Clerk