

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICK ALAN WALSH,
Appellant,
vs.
DIRECTOR, NEVADA DEPARTMENT
OF CORRECTIONS, HOWARD
SKOLNIK; WARDEN, WARM SPRINGS
CORRECTIONAL CENTER,
STEPHANIE HUMPHREY; AND THE
STATE OF NEVADA,
Respondents.

No. 53136

FILED

JAN 08 2010

TRACE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE


This is an appeal from a district court order denying appellant Rick Alan Walsh's timely, first post-conviction petition for a writ of habeas corpus. Fourth Judicial District Court, Elko County; J. Michael Memeo, Judge.

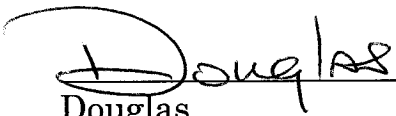
Walsh contends that the district court abused its discretion by denying his habeas petition and finding that counsel was not ineffective for failing to challenge the prior DUI convictions used to enhance the instant offense to a felony. We disagree.

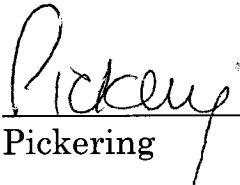
In its order denying the petition, the district court found that Walsh's prior felony convictions did not "expire for subsequent felony enhancement purposes" and that "[r]eference to the law . . . would have clearly put [him] on notice that his conduct would subject him to the sentence enhancement provisions." See NRS 484.3792(2); Dixon v. State, 103 Nev. 272, 274, 737 P.2d 1162, 1164 (1987) ("On the day [appellant] elected to commit the offense here under consideration, reference to the

statute would have indicated precisely the penalty he risked.”). As a result, the district court found that Walsh did not receive ineffective assistance of counsel. See Strickland v. Washington, 466 U.S. 668, 687-88 (1984) (to establish a claim of ineffective assistance of counsel, petitioner must demonstrate that counsel’s performance was objectively unreasonable and resulting prejudice). The district court’s factual findings are entitled to deference when reviewed on appeal. See Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994). The district court’s findings of fact are supported by substantial evidence and are not clearly wrong. Moreover, Walsh has not demonstrated that the district court erred as a matter of law. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. J. Michael Memeo, District Judge
Attorney General/Carson City
Edwin T. Basl
Elko County District Attorney
Elko County Clerk