

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES H. GREEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54215

FILED

MAR 10 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY A. Ingerson
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.¹ Eighth Judicial District Court, Clark County; Kathy A. Hardcastle, Judge.

In his petition, appellant raised eight claims of ineffective assistance of trial counsel. To state a claim of ineffective assistance of counsel a petitioner must demonstrate that his counsel's performance was deficient in that it fell below an objective standard of reasonableness, and resulting prejudice such that there is a reasonable probability of a different outcome but for counsel's errors. See 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.

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

Strickland, 466 U.S. at 697. A petitioner is only entitled to an evidentiary hearing on claims supported by specific facts, which if true, would entitle the petitioner to relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984).

First, appellant claimed that trial counsel was ineffective for failing to meet or communicate with him prior to trial. Appellant failed to demonstrate that he was prejudiced. Given the overwhelming evidence presented against appellant, including eyewitness testimony and appellant's own admission that he was trying to "get the jugular" of the victim, appellant failed to demonstrate a reasonable probability that the result of trial would have been different had trial counsel met with him more extensively. Therefore, the district court did not err in denying this claim.

Next, appellant claimed that trial counsel was ineffective for failing to file a motion to disqualify Judge Bell. Appellant failed to demonstrate that counsel was deficient or that he was prejudiced. Beyond his own blanket assertions, appellant presented no facts to demonstrate why Judge Bell was not competent to preside over his trial. Id. The fact that defendant had appeared before Judge Bell in previous matters did not warrant disqualification. See NRS 1.230. Therefore, the district court did not err in denying this claim.

Next, appellant claimed that trial counsel was ineffective for waiving his right to a preliminary hearing without his consent. This claim is belied by the record on appeal. The justice court minutes indicate that a preliminary hearing was conducted on February 6, 2008, and that defendant was present. Therefore, the district court did not err in denying this claim.

Next appellant claimed that trial counsel was ineffective for (1) failing to present exculpatory evidence; (2) failing to object to instances of witness vouching by the State; (3) failing to object to admission of video exhibits by the State; (4) failing to identify a conflict of interest between himself and appellant; and (5) for actively assisting the State in making a case against him. Appellant failed to show that counsel was deficient or that he was prejudiced. Beyond his bare and naked allegations, appellant failed to support these claims with any specific factual allegations. Hargrove, 100 Nev. at 502, 686 P.2d at 225. Further, in light of the overwhelming evidence presented against appellant at trial, appellant failed to demonstrate any reasonable probability of a different result at trial. Therefore, the district court did not err in denying these claims.

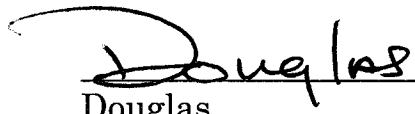
In addition to his claims of ineffective assistance of counsel, appellant also claimed that (1) a conspiracy existed between the State and the district court to deprive appellant of his civil rights; (2) the district court failed to follow appropriate procedures in committing appellant to Lake's Crossing for a competency evaluation; (3) judicial bias; (4) the State committed prosecutorial misconduct and submitted perjured testimony; (5) the State failed to disclose evidence prior to trial; (6) his right to a speedy trial was violated; (7) the district court abused its discretion in committing appellant to Lake's Crossing; (8) the district court failed to disclose a conflict of interest between itself and appellant's attorney; (9) Judge Bell should have recused himself; (10) "corruption/derelection of duties" by the district court and the State; and (11) "habitual intemperance" by the district court. These claims could have been raised on direct appeal, and appellant failed to demonstrate good cause for his failure to do so. See


NRS 34.810(1)(b). Therefore, the district court did not err in denying these claims.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Kathy A. Hardcastle, District Judge
James H. Green
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk