

IN THE SUPREME COURT OF THE STATE OF NEVADA

MOUNIR A. KUBLAWI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55346

FILED

NOV 08 2010

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

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Mounir Kublawi's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; James M. Bixler, Judge.

Kublawi contends that defense counsel was ineffective for (1) failing to fully investigate whether his head injuries impaired his ability to knowingly and voluntarily enter into a guilty plea agreement and (2) failing to object when the district court interjected itself into the plea negotiations by allegedly informing Kublawi that he faced a sentence of 10 years to life. When reviewing the district court's resolution of ineffective-assistance claims, we give deference to the court's factual findings if they are supported by substantial evidence and not clearly erroneous but review the court's application of the law to those facts de novo. Lader v. Warden, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005).

The district court found that defense counsel was aware of the nature of Kublawi's head injuries, sought help for him, and reviewed his medical records. However, counsel did not have cause to seek a psychiatric evaluation because Kublawi's medical records did not reveal any brain damage, neither the records nor Kublawi's claimed memory

problems created a defense, and Kublawi never appeared incoherent or incompetent. The district court further found that counsel had meaningful discussions with Kublawi about the State's case, his defenses, and the district court's sentencing options. The district court rejected Kublawi's claim that counsel was ineffective for failing to object to the district court's statement about sentencing, finding that Kublawi decided to plead guilty based on counsel's advice and knowing the potential sentence he could receive as a result of his prior felony convictions. Finally, the district court specifically found that counsel was "in no form or fashion" ineffective. See Strickland v. Washington, 466 U.S. 668, 687 (1984) (establishing two-part test for ineffective assistance of counsel); Kirksey v. State, 112 Nev. 980, 987-88, 923 P.2d 1102, 1107 (1996) (applying Strickland); see also Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167 (2002) (observing that counsel's decision if and when to object is a tactical decision); Ford v. State, 105 Nev.850, 853, 784 P.2d 951, 953 (1989) ("[t]actical decisions are virtually unchallengeable").

The district court's factual findings are supported by substantial evidence and are not clearly erroneous, and Kublawi has not demonstrated that the district court erred as a matter of law. Accordingly, we conclude that the district court did not err by denying Kublawi's ineffective-assistance claims, and we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. James M. Bixler, District Judge
Eighth District Court Clerk
Attorney General/Carson City
Clark County District Attorney
Law Offices of Martin Hart, LLC