

IN THE SUPREME COURT OF THE STATE OF NEVADA

RASHON KALANIKAI KING,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55850

FILED

SEP 10 2010

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant Rashon King's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge.

King contends that the district court erred by denying his claims that trial counsel was ineffective for failing to challenge jury instruction 28 and that appellate counsel was ineffective for failing to challenge the instruction on direct appeal.

When reviewing the district court's resolution of ineffective-assistance claims, we give deference to the court's factual findings if 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). Here, the district court determined that King was not prejudiced by trial counsel's failure to object or by appellate counsel's failure to raise the issue on direct appeal because his convictions rested on overwhelming evidence. See Strickland v. Washington, 466 U.S. 668, 687 (1984) (establishing a two-part test for evaluating ineffective-assistance-of-counsel claims); Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102, 1113-14 (1996) (applying Strickland to claims of ineffective assistance of appellate counsel).

Our review of the record reveals that the district court's findings are supported by substantial evidence and are not clearly erroneous, and the district court did not err as a matter of law. See Green v. State, 119 Nev. 542, 548, 80 P.3d 93, 97 (2003) (holding that an erroneous instruction did not affect substantial rights where there was overwhelming evidence of guilt). Accordingly, we conclude that King has failed to demonstrate that the district court erred by denying his petition, and we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Steven R. Kosach, District Judge
Scott W. Edwards
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk