

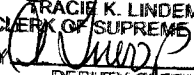
IN THE SUPREME COURT OF THE STATE OF NEVADA

DONALD E. PHILIPPI, A/K/A DONALD  
EDWARD PHILIPPI, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 56105

**FILED**

**APR 06 2011**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY:   
DEPUTY CLERK

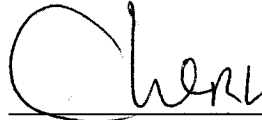
ORDER OF AFFIRMANCE


This is an appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus. First Judicial District Court, Carson City; James Todd Russell, Judge.

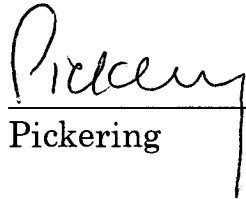
Appellant's appeal consists almost entirely of claims that were not raised in the district court, and as such, we refuse to entertain these claims for the first time on appeal. See Davis v. State, 107 Nev. 600, 606, 317 P.2d 1169, 1173 (1991), overruled on other grounds by Means v. State, 120 Nev. 1001, 1012-13, 103 P.3d 25, 33 (2004). The sole issue on appeal that was raised below, is whether the district court erred in denying appellant's claim that trial counsel was ineffective for failing to object to admission of a letter written in 1995 by the victim to her grandmother. Appellant failed to demonstrate that he was prejudiced. See Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Warden v. Lyons, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984) (adopting the test in Strickland). The substantive claim underlying this ineffective-assistance-of-counsel claim was previously raised on direct appeal and was rejected under the plain error standard. Philippi v. State, Docket No. 35733 (Order of Affirmance, November 14, 2001). Because this court has already concluded that

appellant's underlying claim did not demonstrate prejudice sufficient to warrant reversal, appellant necessarily failed to demonstrate prejudice from counsel's failure to object to the letter. Therefore, the district court did not err in denying this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Pickering

cc: Hon. James Todd Russell, District Judge  
Kay Ellen Armstrong  
Attorney General/Carson City  
Carson City District Attorney  
Carson City Clerk