

IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 35155

PERRY T. WILLIAMS, JR.,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

JUN 13 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. P. [Signature]*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus.

Appellant was originally convicted, pursuant to a jury verdict, of one count of conspiracy to commit murder, one count of attempted murder with the use of a deadly weapon, and one count of battery with the use of a deadly weapon.

Appellant filed a proper person petition for a writ of habeas corpus on March 19, 1999, and subsequently retained counsel. The district court held an evidentiary hearing on October 5, 1999, and denied the petition.

On appeal, the sole issue raised by appellant is that trial counsel was ineffective because trial counsel failed to move for a mistrial or request a curative instruction following a comment by appellant's co-defendant regarding appellant's probationary status.

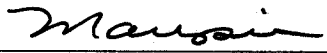
To state a claim of ineffective assistance of counsel sufficient to invalidate a judgment of conviction, a defendant must demonstrate that counsel's performance fell below an objective standard of reasonableness, and that counsel's errors were so severe that they rendered the jury's verdict unreliable. See Strickland v. Washington, 466 U.S.

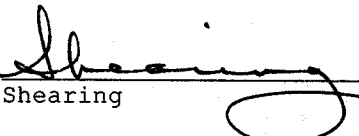
668 (1984); Warden v. Lyons, 100 Nev. 430, 683 P.2d 504 (1984). Further, tactical decisions of counsel are virtually unchallengeable absent extraordinary circumstances. See Howard v. State, 106 Nev. 713, 722, 800 P.2d 175, 180 (1990).


In the instant case, appellant's co-defendant made an unsolicited, passing reference to the fact that appellant was on probation. Appellant's trial counsel immediately objected, and the district court ordered the remark stricken. In considering the post-conviction petition, the district court found that trial counsel's decision not to pursue the matter further was a reasonable tactical decision based on trial counsel's desire not to draw further attention to appellant's prior criminal record. We conclude that the district court did not err in finding that trial counsel's performance did not fall below an objective standard of reasonableness.

Having considered appellant's contention and concluded it is without merit, we

ORDER this appeal dismissed.


_____, J.
Maupin


_____, J.
Shearing


_____, J.
Becker

cc: Hon. Donald M. Mosley, District Judge
Attorney General
Clark County District Attorney
Kirk T. Kennedy
Clark County Clerk