IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL T. MCLAUGHLIN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57249

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Michael McLaughlin's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.

McLaughlin contends that the district court abused its discretion by denying his claims that trial counsel was ineffective for failing to assert a voluntary intoxication defense, object to the State's references to the Columbine tragedy, and properly litigate a juror's inappropriate contact with a witness's husband, and appellate counsel was ineffective for failing to raise the juror misconduct claim on appeal. 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). Here, the district court conducted an evidentiary hearing during which both trial counsel and McLaughlin testified. The district court found that trial counsel did not raise the voluntary intoxication defense, object to the Columbine references, or seek a hearing on the juror's improper contact for tactical reasons and McLaughlin failed to present any evidence to support his claim that appellate counsel was ineffective. See Strickland v. Washington, 466 U.S. 668, 687 (1984) (establishing two-part test for ineffective assistance of counsel); Means v. State, 120 Nev. 1001, 1012-13, 103 P.3d 25, 33 (2004) (petitioner bears the burden of proving ineffective assistance); Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167 (2002) (counsel's decisions regarding if and when to object and what defenses to develop are tactical decisions); Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102, 1113-14 (1996) (applying Strickland to ineffective appellate counsel claims); Ford v. State, 105 Nev. 850, 853, 784 P.2d 951, 953 (1989) ("tactical decisions are virtually unchallengeable"). The district court's factual findings are supported by substantial evidence and are not clearly wrong, McLaughlin has not demonstrated that the district court erred as a matter of law, and

we therefore conclude that the district court did not err by denying McLaughlin's petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.[1]

Douglas, J.

Gibbons, J.

Parraguirre, J.

cc: Hon. Linda Marie Bell, District Judge
Law Offices of Martin Hart, LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

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[1]The clerk of this court shall file the proper person "Memorandum to the Court" received on October 13, 2011. We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.