

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL TROY LINTON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 57270

**FILED**

SEP 14 2011

TRAGIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY H. Lindeman  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Michael Troy Linton's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Senior Judge.

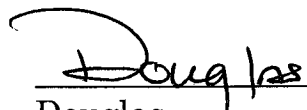
Linton contends that the district court abused its discretion by finding that defense counsel did not deprive him of a direct appeal. A claim that counsel failed to perfect an appeal is a claim of ineffective assistance of counsel. See Lozada v. State, 110 Nev. 349, 354, 871 P.2d 944, 947 (1994). When reviewing the district court's resolution of an ineffective-assistance claim, 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 conducted an evidentiary hearing during which both defense counsel and Linton testified.<sup>1</sup> The district court found that Linton's claims that he

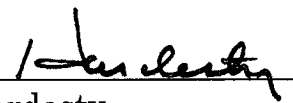
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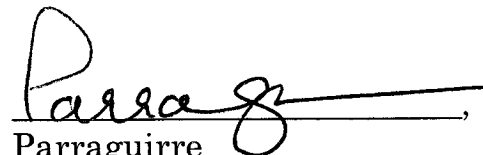
<sup>1</sup>District Judge Donald Mosley conducted the evidentiary hearing and Senior Judge Joseph Bonaventure entered the findings of fact, conclusions of law, and order.

asked defense counsel to file an appeal and attempted multiple times to contact defense counsel to request an appeal lacked credibility. And the district court determined that defense counsel was not ineffective and Linton was not deprived of his right to an appeal. See Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004) (petitioner bears the burden of proving ineffective-assistance). The district court's factual findings are supported by substantial evidence and are not clearly wrong, Linton has not demonstrated that the district court erred as a matter of law, and we conclude that the district court did not abuse its discretion by denying Linton's petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

cc: Chief Judge, Eighth Judicial District Court  
Hon. Joseph T. Bonaventure, Senior Judge  
Hon. Donald M. Mosley, District Judge  
Keith C. Brower  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk