

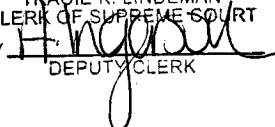
IN THE SUPREME COURT OF THE STATE OF NEVADA

ARMANDO RAMIREZ A/K/A
ARMANDO RAMIREZ, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58010

FILED

MAY 10 2012

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 appellant Armando Ramirez's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; James M. Bixler, Judge.

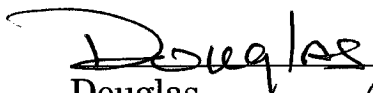
Ramirez argues that the district court erred by denying his claim that trial counsel was ineffective for failing to preserve an objection to the court's rejection of self-defense jury instructions. When reviewing the district court's resolution of an ineffective-assistance claim, we give deference to 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, after holding an evidentiary hearing, the district court found that Ramirez could not show that he was prejudiced in light of the overwhelming evidence of guilt. We conclude that Ramirez has failed to demonstrate that the district court erred in denying his claim. Ramirez did not provide this court with trial transcripts, which hinders our ability to assess the district court's determinations regarding whether counsel was ineffective. See Thomas v. State, 120 Nev. 37, 43 & n.4, 83 P.3d 818, 822 & n.4 (2004) (appellant is ultimately responsible for


providing this court with portions of the record necessary to resolve his claims on appeal); Greene v. State, 96 Nev. 555, 558, 612 P.2d 686, 688 (1980) (“The burden to make a proper appellate record rests on appellant.”); see also Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004) (“[A] habeas corpus petitioner must prove the disputed factual allegations underlying his ineffective-assistance claim by a preponderance of the evidence.”).

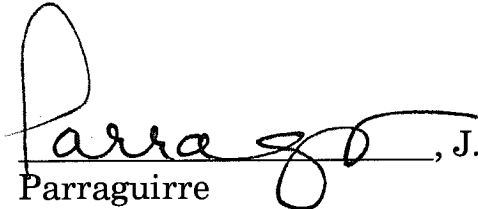
Nevertheless, based on a review of the incomplete record before us, we conclude that Ramirez was not prejudiced by his counsel’s failure to preserve an objection to the district court’s rejection of self-defense instructions. See Means, 120 Nev. at 1011, 103 P.3d at 32 (explaining the two-part test for ineffective-assistance claims under Strickland v. Washington, 466 U.S. 668, 687 (1984)). The jury found Ramirez guilty of first-degree murder, despite being presented with two less serious alternative offenses (second-degree murder and voluntary manslaughter). Thus, there is no reasonable probability that the jury would have acquitted Ramirez had the jury been instructed on self-defense. See Strickland, 466 U.S. at 694-95. Accordingly, Ramirez could not show that the outcome of his trial or direct appeal would have been different but for counsel’s errors.

For the reasons stated above, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. James M. Bixler, District Judge
Gibson & Kuehn
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk