

IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMAS ANDREW DAVIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59499

FILED

OCT 08 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *R. Malone*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant Thomas Andrew Davis' post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge.


Davis contends that the district court erred by not finding that counsel was ineffective for failing to (1) move to dismiss his case based on the pre-indictment delay and violation of his right to a speedy trial, and (2) move to strike the State's untimely notice of intent to seek habitual criminal adjudication. Davis also claims that he is entitled to additional credit for time served.¹ We disagree.²


¹In the supplemental habeas petition filed in the district court on May 13, 2009, Davis claimed, "Counsel was ineffective for failing to apply the proper credit for time served."

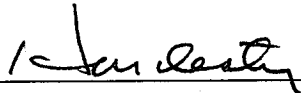
²Davis also contends that the district court's order denying his petition failed to comply with NRS 34.830(1) and contain findings of fact and conclusions of law. We agreed and entered an order of limited remand directing the district court to comply with the statute. On August 24, 2012, the clerk of the district court transmitted to this court an amended order entered by the district court which contained adequate findings of fact and conclusions of law.

When reviewing the district court's resolution of an ineffective-assistance claim, we give deference to the court's factual findings if they are supported by substantial evidence and not clearly wrong 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 multiple hearings, heard extensive arguments from counsel and testimony from Davis and his former counsel, ordered additional briefing, and determined that counsel was not deficient and Davis failed to demonstrate prejudice.³ See Strickland v. Washington, 466 U.S. 668, 687-88, 694 (1984); Kirksey v. State, 112 Nev. 980, 987, 923 P.2d 1102, 1107 (1996). The district court also found that Davis received the appropriate amount of credit for time served from the date of his arrest until sentencing and therefore was not entitled to additional credit. See generally NRS 176.055(1). We conclude that the district court's findings are supported by substantial evidence and not clearly wrong, and Davis has not demonstrated that the district court erred as a matter of law. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Saitta


_____, J.
Pickering


_____, J.
Hardesty

³The Honorable Connie Steinheimer, District Judge, presided over the evidentiary hearing. The Honorable Steven R. Kosach, District Judge, considered the post-hearing briefs, presided over the final hearing, and entered the two orders denying Davis' petition.

cc: Chief Judge, Second Judicial District Court
Karla K. Butko
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk