

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL CURTIS CRAFT,  
Appellant,  
vs.  
BILL DONAT, WARDEN, NSP; AND  
THE STATE OF NEVADA,  
Respondents.

No. 59926

FILED

OCT 08 2012

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *Angela*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant Michael Curtis Craft's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

Craft contends that the district court erred by finding that he did not receive ineffective assistance of counsel at sentencing. When reviewing the district court's resolution of an ineffective-assistance claim, we give deference to the district court's factual findings if supported by substantial evidence and not clearly erroneous but review the district court's application of the law to those facts de novo. Lader v. Warden, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005).

First, Craft complains that the district court erred in denying his claim that counsel was ineffective for failing to present "live testimony" from two of Craft's counselors at sentencing. The district court concluded that counsel was not deficient in this regard and, even assuming deficiency, that counsel's actions were not prejudicial. The district court found that the "live" testimony these witnesses gave during the evidentiary hearing did not materially enhance what they wrote in the letter they submitted at sentencing. The district court determined that


Craft failed to demonstrate that defense counsel was ineffective. See Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Warden v. Lyons, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984) (adopting the test in Strickland). The record on appeal supports the district court's findings, and we conclude that the district court did not err in concluding that Craft had not demonstrated that counsel was ineffective.

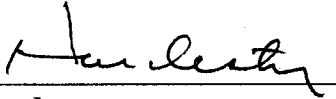
Second, Craft argues that the district court erred by concluding that counsel was effective when he failed to call a psychiatric expert to testify at sentencing. The district court determined that, assuming deficiency, Craft failed to demonstrate that he was prejudiced. See Strickland, 466 U.S. at 687-88. Before trial, counsel had Craft evaluated for competency; Craft was competent. Here, Craft argued that because counsel had concerns about Craft's mental condition, he should have called a psychiatric expert to help mitigate Craft's actions and thus reduce his sentence. In denying Craft's claim, the district court found that its sentencing determination would not have been altered by psychiatric evidence. The district court explained that Craft's sentence was based on the violent nature of this offense and that it occurred shortly after a prior violent felony conviction. And the psychiatrist's testimony at the evidentiary hearing confirmed the district court's worries about Craft's violent tendencies and his possibility to recidivate. The district court's factual findings are supported by substantial evidence and are not clearly wrong. And Craft has not demonstrated that the district court erred as a matter of law in denying this claim.

Having considered Craft's arguments and concluded that they lack merit, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Pickering

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

cc: Hon. Steven P. Elliott, District Judge  
Mary Lou Wilson  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk