

IN THE SUPREME COURT OF THE STATE OF NEVADA

DIRK PATRICK KLINKE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60733

FILED

OCT 08 2012

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

ORDER OF AFFIRMANCE


This is an appeal from a district court order denying appellant Dirk Patrick Klinke's post-conviction petition for a writ of habeas corpus. First Judicial District Court, Carson City; James E. Wilson, Judge.


Klinke argues that the district court erred by denying his claim that counsel was ineffective when she advised him to plead guilty without adequately investigating the case. Specifically, Klinke argues that counsel should have subpoenaed records from Craigslist and requested funds for a forensic computer examiner. 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).

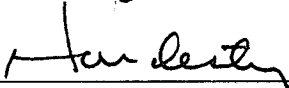
Here, the district court conducted an evidentiary hearing during which both Klinke and defense counsel testified. The district court found that counsel had adequately investigated the purchase date of the computer and the download dates of the child pornography. Counsel met with the State's computer expert and was shown the evidence against

Klinke. And the district court concluded that counsel was not deficient because it was unlikely that the trial court would have granted funds for a computer expert so early in the proceedings. The district court also determined that Klinke failed to demonstrate prejudice because the evidence in the case weighed heavily against him and he received a significantly lighter sentence than he would have received if convicted at trial. Therefore, the district court determined that Klinke failed to demonstrate that defense counsel was ineffective. See Hill v. Lockhart, 474 U.S. 52, 58-59 (1985) (setting forth two-part test for determining ineffective assistance of counsel when defendant has pleaded guilty); Kirksey v. State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996). The district court's factual findings are supported by substantial evidence and are not clearly wrong and Klinke 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

cc: Hon. James E. Wilson, District Judge
Kay Ellen Armstrong
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk