

IN THE SUPREME COURT OF THE STATE OF NEVADA

PHILIP A. HENDERSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 62388

FILED

OCT 16 2013

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

ORDER OF AFFIRMANCE

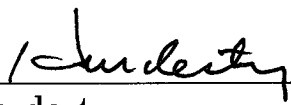
This is an appeal from a district court order denying appellant Philip A. Henderson's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.


Henderson contends that the district court erred by denying his habeas petition. Henderson claims that his trial counsel was ineffective for failing to (1) adequately challenge the admission of the 2-year-old victim's prejudicial hearsay statements and object on Confrontation Clause grounds, (2) conduct a proper pretrial investigation, (3) retain a defense expert to challenge the State's medical expert witness' testimony, and (4) object to language in the criminal information and jury instructions, the district court's answer to a jury question, and the verdict form. We disagree.

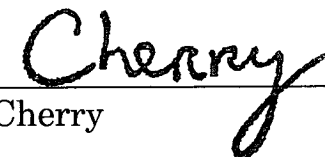
When reviewing the district court's resolution of an ineffective-assistance claim, we give deference to the court's factual findings if they are supported by substantial evidence and not clearly wrong but review the court's application of the law to those facts de novo. *Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005). Here, the district court conducted an evidentiary hearing, heard testimony from Henderson's trial counsel, his mother and stepfather, and a child abuse

pediatrician qualified as an expert, and determined that counsel was not deficient and that Henderson failed to demonstrate prejudice. 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); see also *Cullen v. Pinholster*, 563 U.S. ___, ___, 131 S. Ct. 1388, 1408 (2011) (“We have recently reiterated that [s]urmounting *Strickland*’s high bar is never an easy task.” (quotation marks omitted) (alteration in original)). We conclude that the district court did not err by rejecting Henderson’s ineffective-assistance claims, and we

ORDER the judgment of the district court AFFIRMED.¹


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

cc: Hon. Elissa F. Cadish, District Judge
Matthew D. Carling
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹The fast track response submitted by the State does not comply with NRAP 3C(h)(1) and NRAP 32(a)(4) because the text is not double-spaced. Counsel for the State is cautioned that the failure to comply with the briefing requirements in the future may result in the imposition of sanctions. See NRAP 3C(n).