

IN THE SUPREME COURT OF THE STATE OF NEVADA

RAYMOND JAMES MASCARENAS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 62943

FILED

JAN 16 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

On appeal from the denial of his October 6, 2011, petition, appellant argues that the district court erred in denying one claim of ineffective assistance of trial counsel.¹ To prove ineffective assistance of counsel, a petitioner must demonstrate that counsel's performance was deficient in that it fell below an objective standard of reasonableness, and resulting prejudice such that there is a reasonable probability that, but for counsel's errors, the outcome of the proceedings would have been different. *Strickland v. Washington*, 466 U.S. 668, 687-88 (1984); *Warden v. Lyons*,

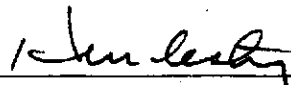
¹Appellant had raised several claims of ineffective assistance of counsel, but on appeal he challenges the district court's disposition of only one of those claims. He had also raised a claim regarding a jury instruction, but he does not challenge the district court's disposition of that claim on appeal.

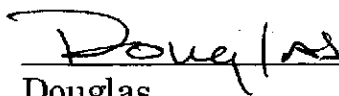
100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984) (adopting the test in *Strickland*). Both components of the inquiry must be shown, *Strickland*, 466 U.S. at 697, and the petitioner must demonstrate the underlying facts by a preponderance of the evidence, *Means v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). We give deference to the district 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).

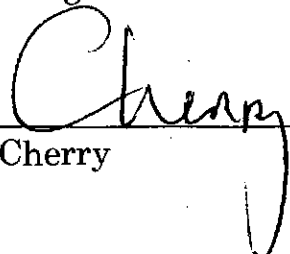
Appellant argues that counsel was ineffective for failing to allow appellant's parents to be present during discussions as to whether appellant should accept the State's guilty plea offer, an offer which appellant rejected. Appellant has failed to demonstrate deficiency or prejudice. Appellant does not cite to any authority supporting his proposition that an attorney representing a juvenile offender who has been certified as an adult must advise or consult with his client's parents. *Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987). Further, the district court's findings that counsel communicated the plea bargain to appellant, that this is not a case where conviction was certain, and that appellant was adamant in refusing the guilty plea because he felt he had done nothing wrong are all supported by substantial evidence in the record presented to this court. And although both parents testified at appellant's evidentiary hearing, appellant failed to present any evidence that either parent would have counseled him to accept the guilty plea offer. Accordingly, appellant failed to demonstrate a reasonable probability of a different outcome had counsel included appellant's parents

in his guilty plea discussions with appellant. We therefore conclude that the district court did not err in denying this claim, and we

ORDER the judgment of the district court AFFIRMED.

, J.
Hardesty

, J.
Douglas

, J.
Cherry

cc: Hon. Patrick Flanagan, District Judge
Story Law Group
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk