

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES LEONARD LANE, III,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 63097

**FILED**

**MAR 12 2014**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a district court order denying appellant's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; David B. Barker, Judge.

Appellant Charles Leonard Lane, III, contends that the district court erred by denying his habeas petition. Lane claims that trial counsel was ineffective for failing to (1) file a pretrial habeas petition challenging the probable cause determination, (2) object to unrecorded bench conferences, (3) properly cross-examine a witness for the State, (4) object to the State's use of the surveillance videotape, (5) prepare for and properly utilize the Spanish-language interpreter, (6) retain a medical expert to evaluate the victim's knife wounds, (7) preserve an adequate trial record for appellate review, (8) investigate after the verdict and consider filing a motion for a new trial, and (9) object during the State's

examination of his coconspirator.<sup>1</sup> Lane contends that appellate counsel was ineffective for failing to (1) provide this court with an adequate record for review, and (2) file or advise him “of the availability of Motions for Rehearing or a Petition for Certiorari to the United States Supreme Court.” Lane also claims that cumulative error warrants the reversal of his conviction.

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 and heard testimony from Lane’s trial counsel. Lane did not testify at the evidentiary hearing and his counsel submitted the matter without argument. The district court determined that trial counsel was not deficient and that Lane 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

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<sup>1</sup>Lane also contends that trial counsel was ineffective for “failing to conduct appropriate voir dire.” Lane failed to raise this issue in his petitions below, therefore, we decline to address it. *See Davis v. State*, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991), *overruled on other grounds by Means v. State*, 120 Nev. 1001, 1012-13, 103 P.3d 25, 33 (2004).

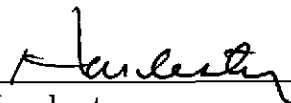
*Strickland's* high bar is never an easy task.” (quotation marks omitted) (alteration in original)). The district court also determined that appellate counsel was not ineffective, see *Kirksey*, 112 Nev. at 998, 923 P.2d at 1113-14, and that “[n]either [Lane’s] trial nor his appeal was tainted by cumulative error because there is no reasonable question as to his guilt and he failed to prove that any errors actually occurred.”

On appeal, Lane does not address the district court’s order and offers no argument in support of the several claims raised. See *Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) (“It is appellant’s responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court.”). Nevertheless, based on our review of the record, we conclude that the district court’s findings are supported by substantial evidence, see *Riley v. State*, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994), and the district court did not err by rejecting Lane’s ineffective-assistance claims.

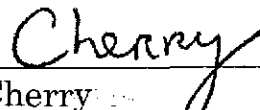
Finally, Lane contends that the sentence imposed by the district court is disproportionate to the offense and constitutes cruel and unusual punishment. The district court determined that Lane’s “direct appeal claim” was “not cognizable by this court on post-conviction.” We agree that Lane waived his right to challenge the severity of his sentence by failing to pursue the matter in his direct appeal, and conclude that the district court did not err by rejecting this claim. See NRS 34.810(1)(b)(2); *Franklin v. State*, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) (“[C]laims that are appropriate for a direct appeal must be pursued on

direct appeal, or they will be considered waived in subsequent proceedings.”), *overruled on other grounds by Thomas v. State*, 115 Nev. 148, 979 P.2d 222 (1999). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Cherry

cc: Hon. David B. Barker, District Judge  
The Kice Law Group, LLC  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk