

IN THE SUPREME COURT OF THE STATE OF NEVADA

KERRY R. WATKINS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 35908

FILED

MAR 01 2002

ORDER OF AFFIRMANCE

JANE ITE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant Kerry R. Watkins' post-conviction petition for a writ of habeas corpus.

In the petition filed below, Watkins presented claims of ineffective assistance of counsel. The district court found that counsel was not ineffective. The district court's factual findings regarding a claim of ineffective assistance of counsel are entitled to deference when reviewed on appeal.<sup>1</sup> Watkins has not demonstrated that the district court's findings of fact are not supported by substantial evidence or are clearly wrong. Moreover, Watkins has not demonstrated that the district court erred as a matter of law.

We have reviewed the record on appeal, and for the reasons set forth in the attached order of the district court, conclude that the

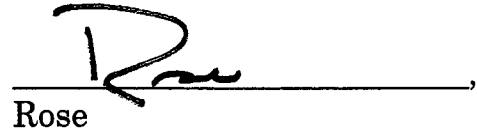
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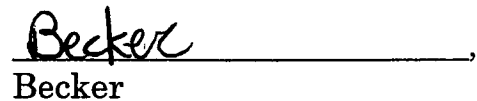
<sup>1</sup>See Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994).

district court properly denied Watkins' petition. Therefore, briefing and oral argument are unwarranted in this case.<sup>2</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>3</sup>

 J.  
Shearing

 J.  
Rose

 J.  
Becker

cc: Hon. Steven R. Kosach, District Judge  
Attorney General/Carson City  
Washoe County District Attorney  
Kerry Roy Watkins  
Washoe District Court Clerk

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<sup>2</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975), cert. denied, 423 U.S. 1077 (1976).

<sup>3</sup>We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF WASHOE

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KERRY ROY WATKINS,

Petitioner,

v.

Case No. CR96P0756

THE STATE OF NEVADA,

Dept. No. 8

Respondent.

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FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND JUDGMENT

This cause came before the court upon a Petition for Writ of Habeas Corpus (Post-Conviction). Petitioner Watkins was represented by an experienced attorney, John Ohlson, when he was convicted by a jury verdict of sexual assault and multiple counts of lewdness upon a child under 14 years of age. He appealed but the judgment was affirmed. He then filed a timely petition for writ of habeas corpus alleging several variations of ineffective assistance of counsel. The State answered and filed a return and the cause was set for a hearing.

The parties appeared on February 11, 2000. Watkins

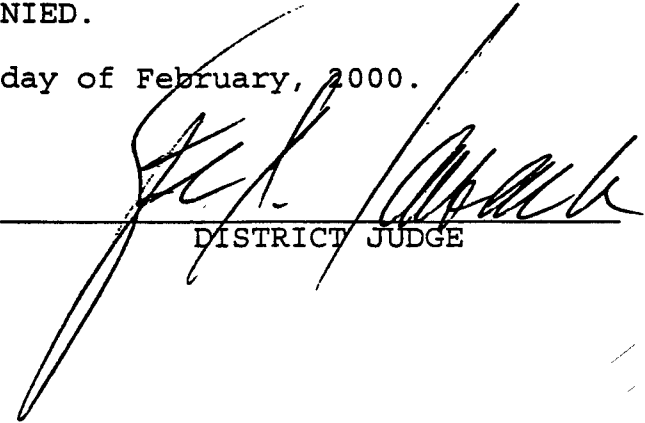
1 appeared in proper person. He confirmed that he wished to  
2 proceed without counsel. Watkins then made an extensive opening  
3 statement. He did not, however, support his claims with any  
4 evidence. He did not elect to testify himself, nor did he call  
5 Mr. Ohlson as a witness despite the fact that Ohlson was in the  
6 courtroom and available to be called as a witness, and despite  
7 the fact that he was repeatedly told by both the court and the  
8 prosecutor that he had to support his claims with evidence and  
9 not mere unsworn argument.

10           Watkins called one witness, a Mr. Didion, who testified  
11 only that he had been available as a trial witness and that he  
12 was aware that Watkins wanted Ohlson to present his testimony.  
13 He did not describe what sort of testimony he would have been  
14 able to present if he had been called as a trial witness. Thus,  
15 the court finds no reason to believe that Mr. Didion had any  
16 pertinent evidence to present that could have had any impact on  
17 the results of the trial.

18           A lawyer is presumed to be competent and to have fully  
19 discharged his duties. That presumption can be overcome only by  
20 strong and convincing evidence to the contrary. Homick v. State,  
21 112 Nev. 304, 913 P.2d 1280 (1996). Watkins failed to present  
22 any evidence supporting his contentions, and failed to show any  
23 prejudice accruing from the alleged but unproven failings of his  
24 counsel. Nor did Watkins request a continuance in order to  
25 gather additional evidence. The records of this court reveal  
26 that Watkins was on notice of the date of the hearing and the

1 purpose of the hearing. His failure to support his claims with  
2 evidence leads to this ruling: the Petition for Writ of Habeas  
3 Corpus (Post-Conviction) is DENIED.

4 DATED this 15 day of February, 2000.

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8 DISTRICT JUDGE  
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