

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID SID,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 64241

FILED

JUN 11 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Mahne*
DEPUTY CLERK

ORDER OF AFFIRMANCE

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

Sid claims that the district court erred by denying his petition and finding that his counsel was not ineffective for failing to file an appeal from the judgment of conviction. We disagree.

In the written plea agreement, which Sid acknowledged having read and signed, Sid specifically waived his right to a direct appeal. *See Cruzado v. State*, 110 Nev. 745, 746-47, 879 P.2d 1195, 1195-96 (1994), *overruled on other grounds by Lee v. State*, 115 Nev. 207, 985 P.2d 164 (1999). Further, both Sid and his counsel testified at an evidentiary hearing that Sid never requested counsel to file an appeal. We conclude that the district court did not err by finding that counsel was not ineffective for failing to file a notice of appeal. *See Strickland v. Washington*, 466 U.S. 668, 687-88 (1984) (to prove ineffective assistance of counsel a petitioner must prove both deficient performance by counsel and resulting prejudice); *Warden v. Lyons*, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984) (adopting the test in *Strickland*); *Lader v. Warden*, 121 Nev.

682, 686, 120 P.3d 1164, 1166 (2005) (we give deference to the district court's factual findings if supported by substantial evidence and not clearly erroneous, but review application of the law to those facts de novo).
Therefore, we

ORDER the judgment of the district court AFFIRMED.

Pickering, J.
Pickering

Parraguirre, J.
Parraguirre

Saitta, J.
Saitta

cc: Hon. David B. Barker, District Judge
Nguyen & Lay
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk