

IN THE SUPREME COURT OF THE STATE OF NEVADA

HECTOR MIGUEL GONZALEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 65275

FILED

DEC 10 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 Hector Miguel Gonzalez's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.


Gonzalez contends that the district court erred by denying his post-conviction habeas petition. Gonzalez claims that trial counsel were ineffective for failing to investigate and present evidence to support his theory of defense. Gonzalez also claims that trial counsel were ineffective for failing to file pretrial motions to (1) dismiss based on a *Marcum* violation,¹ (2) suppress incriminating statements, (3) exclude a prior bad act, (4) bifurcate the proceedings and sever the "violation of a court order" element in six of the charged counts, and (5) obtain a psychological evaluation of the victim. We disagree with Gonzalez's contention.

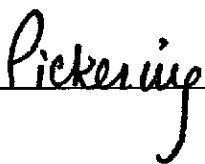
When reviewing the district court's resolution of an ineffective-assistance claim, we give deference to the court's factual findings if they are supported by substantial evidence and not clearly

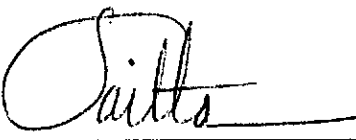
¹*Sheriff v. Marcum*, 105 Nev. 824, 827, 783 P.2d 1389, 1391 (1989).

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 Gonzalez and one of the two attorneys who represented him at trial. The district court found that Gonzalez failed to demonstrate that trial counsel were deficient or 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) ("Surmounting *Strickland's* high bar is never an easy task." (quotation marks omitted) (alteration omitted)). 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 Gonzalez's ineffective-assistance claims. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Pickering


_____, J.
Saitta

cc: Hon. Elissa F. Cadish, District Judge
Terrence M. Jackson
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk