

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT WARD MARIN, II,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 65905

FILED

NOV 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. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

Appellant argues that the district court erred by denying his claims that defense counsel was ineffective due to the existence of a conflict of interest, counsel's failure to make a reasonable investigation in preparation for trial, and counsel's failure to perfect an appeal. We review the district court's resolution of ineffective-assistance claims de novo, giving deference to the court's factual findings if they are supported by substantial evidence and not clearly wrong. *Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005). Here, the district court conducted an evidentiary hearing on appellant's habeas petition and found, among other things, that appellant made no showing that (1) a conflict of interest existed, (2) counsel's pretrial investigation was deficient, or (3) counsel knew or should have known that appellant wanted to appeal his conviction. Our review of the record reveals that the district court's factual findings are supported by substantial evidence and are not clearly wrong, and appellant has not demonstrated that the district court erred as a matter of law. *See Strickland v. Washington*, 466 U.S. 668, 687 (1984)

(establishing two-part test for ineffective assistance of counsel); *Kirksey v. State*, 112 Nev. 980, 987-88, 923 P.2d 1102, 1107 (1996) (applying the test in *Strickland* to a conviction based on a guilty plea); *see also Means v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004) (petitioner must prove the facts underlying his claims of ineffective-assistance by a preponderance of the evidence). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

cc: Hon. Janet J. Berry, District Judge
Story Law Group
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk