

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RAMONT WILLIAMS A/K/A RAMONT  
LEONARDO WESLEY,  
Appellants,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 65915

**FILED**

FEB 25 2015

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

*ORDER OF AFFIRMANCE*

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

*Ineffective assistance of counsel*

Appellant was convicted of battery with the use of a deadly weapon resulting in substantial bodily harm and was acquitted of attempted murder with the use of a deadly weapon. He argues that the district court erred by denying his claims that trial counsel was ineffective for failing to investigate the case, present expert testimony, and have an unavailable witness' preliminary hearing testimony admitted into evidence. 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).

The district court conducted an evidentiary hearing on these claims of ineffective assistance of counsel. It found that defense counsel's theory of the case was that appellant did not attack the victim. It further found that defense counsel was not ineffective for failing to present expert

testimony regarding the victim's injuries because such testimony would have been inconsistent with the theory of the case, the allegations that defense counsel was ineffective for failing to investigate witnesses and file pretrial motions were meritless, and defense counsel argued for admission of the unavailable witness' statement.

As appellant's brief points out, there are a number of areas where counsel's performance may have been deficient. However, we need not address this prong because we conclude that appellant failed to demonstrate that he was prejudiced. *See Strickland v. Washington*, 466 U.S. 668, 687, 697 (1984); *Kirksey v. State*, 112 Nev. 980, 987, 923 P.2d 1102, 1107 (1996). Specifically, appellant failed to demonstrate a reasonable probability that, but for counsel's errors, the trial result would have been different because appellant testified at trial that he struck the victim and the proffered expert testimony was inconclusive. *See Kirksey*, 112 Nev. at 987, 923 P.2d at 1107. Therefore, we conclude the district court did not err by denying these claims.

#### *Evidentiary hearing*

Appellant appears to argue that the district court erred by denying some of his claims without first conducting an evidentiary hearing. He asserts that an evidentiary hearing was necessary to provide him with an opportunity to discover and present evidence that by its nature was otherwise unavailable.

A petitioner is entitled to an evidentiary hearing *only* if he asserts specific factual allegations that are not belied or repelled by the record and that, if true, would entitle him to relief. *Nika v. State*, 124 Nev. 1272, 1300-01, 198 P.3d 839, 858 (2008). "We review the district court's determination that a petitioner is not entitled to an evidentiary

hearing for abuse of discretion.” *Stanley v. Schriro*, 598 F.3d 612, 617 (9th Cir. 2010).


Appellant has failed to specify which of his claims warranted an evidentiary hearing. The district court considered appellant’s claims and found that they were bare allegations, belied by the record, or would not warrant relief even if true. We conclude that appellant has failed to make any showing that the district court abused its discretion in this regard.

*Cumulative error*

Appellant argues that the district court erred in denying his habeas petition because the cumulative effect of the individual errors found in counsel’s performance warranted relief. However, even assuming that multiple deficiencies in counsel’s performance may be cumulated to find prejudice under the *Strickland* test, see *McConnell v. State*, 125 Nev. 243, 259 n.17, 212 P.3d 307, 318 n.17 (2009), the district court did not find any such deficiencies, so there was nothing to cumulate.

Having concluded that appellant is not entitled to relief, we  
ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

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