

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FRANCIS JAMES JOHNSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 66555

FILED

FEB 04 2015

TRACIE K. LINDEMAN
CLERK OF THE COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

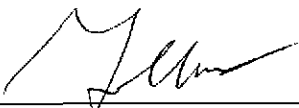
This is an appeal from an order of the district court denying a post-conviction petition requesting genetic marker testing pursuant to NRS 176.0918.¹ Eighth Judicial District Court, Clark County; James M. Bixler, Judge.

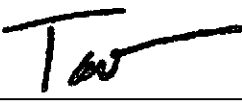
Appellant filed his post-conviction petition for genetic marker testing on August 28, 2013. Appellant failed to demonstrate that he met the requirements for genetic marker testing. See NRS 176.0918(3). First, he failed to set forth the results of "all prior genetic marker analysis performed on evidence in the trial which resulted in [appellant's] conviction." NRS 176.0918(3)(d). Second, appellant failed to demonstrate a reasonable possibility that he "would not have been prosecuted or convicted if exculpatory results had been obtained through a genetic marker analysis." NRS 176.0918(3)(b). The State's case against appellant did not include DNA evidence from the bathing suit or knife. Appellant

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See *Luckett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

did not touch the bathing suit and the sexual assault was interrupted. Further, the victim knew appellant and immediately identified appellant as the person who sexually assaulted her. Appellant's vague claims regarding the crime lab technician and crime lab not being accredited were not sufficient to demonstrate he would not have been prosecuted or convicted. Therefore, the district court did not err in denying the petition, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. James M. Bixler, District Judge
Francis James Johnson
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk