

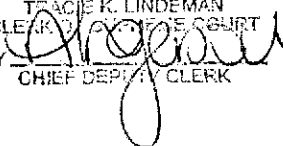
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LEO DEXTER MEWES, JR.,  
Appellant,  
vs.  
NEVADA DEPARTMENT OF  
CORRECTIONS, WARDEN, GREG  
SMITH,  
Respondent.

No. 68228

FILED

DEC 18 2015

TRACIE K. LINDEMAN  
CLERK OF THE COURT  
BY   
CHIEF DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a district court order denying a postconviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

In his petition filed on September 20, 2012, appellant Leo Mewes, Jr., claimed that defense counsel were ineffective for misadvising him about the penalty for a third offense of domestic battery. He argued but for counsels' misadvice he would have accepted the State's initial plea offer. And he cited to *Lafler v. Cooper*, \_\_\_ U.S. \_\_\_, 132 S. Ct. 1376 (2012), for the proposition that the proper remedy for counsels' ineffective assistance was to order the State to reoffer the initial plea agreement.

To prevail on a claim of ineffective assistance of counsel, a petitioner must show that (1) counsel's performance was deficient because it fell below an objective standard of reasonableness and (2) the deficiency prejudiced the defense. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). Both prongs of the ineffective-assistance inquiry must be shown. *Id.* at 697. 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 and made the following findings: Mewes was unwilling to consider any plea offer, regardless of the potential prison time, until after the preliminary hearing. Mewes failed to show that counsels' advice caused him to reject the State's initial plea offer. And, consequently, Mewes failed to demonstrate any prejudice arising from counsels' advice.

Our review of the record reveals the district court's factual findings are supported by substantial evidence and are not clearly wrong. We conclude Mewes failed to demonstrate he was prejudiced by counsels' performance and the court did not err by denying his petition. *See Means v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004) (petitioner bears the burden of proving ineffective assistance of counsel). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Patrick Flanagan, District Judge  
David Kalo Neidert  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk