

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY TERRELL HAMPTON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68557

FILED

FEB 17 2016

MACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Michael Villani, Judge.

In his May 1, 2014, petition, appellant Anthony Hampton raised several claims of ineffective assistance of counsel. On appeal from the order denying the petition, the Court of Appeals, affirmed the denial of the majority of the claims, but reversed the denial of Hampton's appeal deprivation claim and remanded for an evidentiary hearing on that claim. *Hampton v. State*, Docket No. 66175 (Order Affirming in Part, Reversing in Part and Remanding, January 21, 2015).


On remand, the district court conducted an evidentiary hearing where Hampton's counsel testified. The district court found that Hampton's counsel informed Hampton that he needed to immediately file a notice of appeal from the Third Amended Judgment of Conviction


¹This appeal has been submitted for decision without oral argument and we conclude the record is sufficient for our review and briefing is unwarranted. NRAP 34(f)(3), (g).

because of the 30-day time-limit. The court also found that Hampton specifically directed counsel not to file an appeal on two separate occasions. The district court concluded Hampton was not deprived of a direct appeal due to the ineffective assistance of counsel and denied the claim.

The district court's findings are supported by substantial evidence and are not clearly wrong, and we conclude the district court did not err as a matter of law. *See Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005); *see also Strickland v. Washington*, 466 U.S. 668, 687-88 (1984) (establishing two-part test for demonstrating ineffective assistance of counsel); *Toston v. State*, 127 Nev. 971, 978-79, 267 P.3d 795, 800-01 (2011) (holding that counsel has a duty to file an appeal either when counsel is requested to do so or "when the client's desire to challenge the conviction or sentence can be reasonably inferred from the totality of the circumstances). Accordingly, we conclude the district court did not err by denying Hampton's appeal deprivation claim and the petition. Therefore, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Michael Villani, District Judge
Anthony Terrell Hampton
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk