

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOSHUA RYAN GROW,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 71404

FILED

AUG 16 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Joshua Ryan Grow appeals from a district court order denying the postconviction petition for a writ of habeas corpus he filed on October 1, 2015. First Judicial District Court, Carson City; James Todd Russell, Judge.


Grow claims the district court erred by denying his petition because he was deprived of effective assistance of counsel. To establish ineffective assistance of trial counsel, a petitioner must demonstrate counsel's performance was deficient because it fell below an objective standard of reasonableness, and resulting prejudice in that there is a reasonable probability, but for counsel's errors, the outcome of the proceedings would have been different. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). The petitioner must demonstrate both components of the ineffective-assistance inquiry—deficiency and prejudice. *Id.* at 697. We give deference to the district court's factual findings if supported by substantial evidence and not clearly erroneous but review the court's application of the law to those facts de novo. *Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005).


In his petition, Grow argued defense counsel was ineffective for failing to move for suppression of evidence obtained during a warrantless search. The district court conducted an evidentiary hearing and made the following findings: Grow consistently denied ownership of the container in which the drugs were found. Defense counsel did not believe Grow would have testified differently at a suppression hearing. And any motion to suppress this evidence would have been futile because Grow lacked standing to challenge the search of the container.

The record supports the district court's findings, and we conclude it did not err in denying Grow's petition. *See State v. Taylor*, 114 Nev. 1071, 1077-78, 968 P.2d 315, 320 (1998); *Hicks v. State*, 96 Nev. 82, 83, 605 P.2d 219, 220 (1980); *Donovan v. State*, 94 Nev. 671, 674-75, 584 P.2d 708, 710-11 (1978). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. James Todd Russell, District Judge
State Public Defender/Carson City
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk