

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WILLIAM VUKI WILSON, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 71796

**FILED**

SEP 13 2017

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

*ORDER OF AFFIRMANCE*

William Vuki Wilson, Jr., appeals from a district court order denying the postconviction petition for a writ of habeas corpus he filed on November 10, 2015. First Judicial District Court, Carson City; James E. Wilson, Judge.

Wilson claims the district court erred by denying his postconviction habeas petition because he was deprived of effective assistance of counsel at sentencing. He asserts defense counsel was ineffective for failing to present mitigation evidence, argue for probation and a treatment program, and explain his subsequent criminal history.

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).

The district court conducted an evidentiary hearing and made the following findings. Wilson's goal during the course of his case was to receive probation and avoid going to prison. The only way Wilson could be eligible for probation was if counsel successfully negotiated away the charge of driving under the influence causing substantial bodily harm, which carried a mandatory prison sentence. Counsel was successful in that effort and proceeded with the plan to seek probation. However, on the day of sentencing, it became apparent the victim had indeed sustained substantial bodily harm and Wilson would not receive probation. Counsel informed Wilson he would not receive probation and argued to the district court for a minimum sentence.

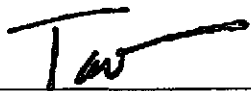
The district court further found that Wilson had engaged in very dangerous conduct by driving through town, at approximately 4:00 in the afternoon, at speeds up to 80 mph, in neighborhoods where families and children lived. The district court recognized this conduct could have had far more serious consequences than it did. And the district court concluded even if counsel had presented mitigating evidence about Wilson's assistance to law enforcement personnel before the instant case and explained away the two offenses he committed after the instant case, it would not have changed the outcome of the sentencing hearing.


The record supports the district court's factual findings, and we conclude Wilson failed to meet his burden of proving ineffective assistance

of counsel. *See Means v. State*, 120 Nev. 1001, 1012-13, 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.  
Silver

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

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

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