

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WILLIAM CRAWFORD, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 76918-COA

**FILED**

AUG 14 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

William Crawford, Jr. appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

Preliminarily, Crawford argues the district court erred by denying all of the claims raised in his December 6, 2016, petition and later-filed supplement without conducting an evidentiary hearing. To warrant an evidentiary hearing, a petitioner must raise claims supported by specific allegations not belied by the record, that if true, would entitle him to relief. *See Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). Whether an evidentiary hearing is warranted is a claim-specific inquiry. *See Berry v. State*, 131 Nev. 957, 969, 363 P.3d 148, 1156 (2015) (setting forth the test for an evidentiary hearing in the context of “a claim”). As we explain below, although Crawford raised numerous claims of ineffective assistance of counsel, the district court concluded each of Crawford’s claims failed to meet the standard for an evidentiary hearing, and the record before this court reveals the district court’s conclusions in this regard were proper.

Therefore, we conclude the district court did not abuse its discretion by resolving the petition without conducting an evidentiary hearing.

*Ineffective Assistance of Trial Counsel*

Crawford argues the district court erred by denying his claims of ineffective assistance of trial counsel. To prove ineffective assistance of trial counsel, a petitioner must demonstrate counsel's performance was deficient in that it fell below an objective standard of reasonableness, and resulting prejudice such 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, 687-88 (1984); *Warden v. Lyons*, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984) (adopting the test in *Strickland*). Both components of the inquiry must be shown. *Strickland*, 466 U.S. at 697.

First, Crawford argued his trial counsel was ineffective for failing to object when the pandering instruction did not instruct the jury concerning specific intent. Crawford contended on direct appeal that he was entitled to relief because the pandering instruction did not properly explain specific intent. The Nevada Supreme Court determined the pandering instruction was erroneous and examined the claim under a plain-error standard. The court concluded Crawford was not entitled to relief because the evidence produced at trial demonstrated "Crawford specifically intended to induce the victims to become or remain prostitutes, and we are confident that the jury would have convicted him had a proper instruction been given." *Crawford, Jr. v. State*, Docket No. 66892 (Order of Affirmance, November 13, 2015). Because the evidence produced at trial demonstrated Crawford acted with the specific intent to commit pandering, he failed to

demonstrate a reasonable probability of a different outcome had counsel requested the trial court to instruct the jury concerning specific intent. Accordingly, Crawford failed to demonstrate prejudice resulted from his counsel's failure to object to the jury instruction. Therefore, we conclude the district court did not err by denying this claim.

Second, Crawford argued his trial counsel was ineffective for failing to object to prejudicial expert testimony regarding pimp-prostitute subculture. The record reveals this expert testimony was admitted to explain Crawford's actions and statements, as well as the victims' responses to his actions, with respect to Crawford's forcing the victims to engage in acts of prostitution. Thus, this expert testimony was properly admitted pursuant to NRS 50.275. *See Higgs v. State*, 126 Nev. 1, 17-18, 222 P.3d 648, 658-59 (2010) (explaining district court judges have wide discretion to admit expert testimony within the parameters of NRS 50.275).

In addition, the Nevada Supreme Court has previously permitted the admission of expert testimony regarding the pimp-prostitute subculture, but has cautioned there are limits to permissible uses of such testimony. *Ford v. State*, 127 Nev. 608, 625 n.9, 262 P.3d 1123, 1134 n.9 (2011). Considering the victims' testimonies regarding Crawford's threats, his directions regarding the victims' actions and money, his use of violence to control the victims, and the context of the expert testimony in this matter, Crawford failed to demonstrate this testimony exceeded the permissible limit. Given the significant evidence of Crawford's guilt presented at trial, he failed to demonstrate a reasonable probability of a different outcome at trial had counsel objected to admission of this expert testimony. Accordingly, Crawford failed to demonstrate his counsel's performance was

deficient or resulting prejudice. Therefore, we conclude the district court did not err by denying this claim.

Third, Crawford argued his trial counsel was ineffective for failing to object when the expert witness on pimp-prostitute subculture gave an improper excited summary of the case. Crawford based this claim upon *United States v. Reyes*, 18 F.3d 65, 69-70 (2nd Cir. 1994), but Crawford's reliance was misplaced. The *Reyes* court explained the government introduced hearsay statements in the form of a "narration of the exciting story of the investigation" during trial in an effort to provide background for the investigating agents' actions during their investigation of the case, but the use of the hearsay statements in that context was improper. *Id.* at 67, 69-70. In contrast, the expert witness in this matter did not utilize improper hearsay statements and did not provide an exciting story of the investigation of this matter in his testimony, but rather properly provided expert testimony concerning pimp-prostitute subculture. Therefore, Crawford did not demonstrate his counsel's failure to assert the expert witness gave an improper excited summary of the case fell below an objectively reasonable standard. Crawford also did not demonstrate a reasonable probability of a different outcome at trial had counsel objected to admission of this expert testimony. Accordingly, Crawford failed to demonstrate his counsel's performance was deficient or resulting prejudice. Therefore, we conclude the district court did not err by denying this claim.

Fourth, Crawford argued his trial counsel was ineffective for failing to object to admission of prior-bad-act evidence and for asking questions that introduced such evidence. Crawford contended testimony concerning the injuries he inflicted upon the victims and his threats to harm

the victims amounted to improper prior-bad-act evidence. He asserted counsel should have objected to testimony regarding that information and refrained from posing questions that caused introduction of this type of information.

The State alleged Crawford committed two counts of involuntary servitude and did so in part by physically abusing both victims. See NRS 200.463(1)(a) (defining the crime of involuntary servitude as forcing a person to perform labor or services by “[c]ausing or threatening to cause physical harm to any person”). Given the involuntary-servitude charges, the challenged testimony was properly admitted because evidence of Crawford’s acts of violence and threats was “inextricably intertwined with the charged crimes” and the victims could not have described “the crime[s] charged without referring to related uncharged acts.” *State v. Shade*, 111 Nev. 887, 894-95, 900 P.2d 327, 331 (1995); see also NRS 48.035(3) (codification of the res gestae rule).

Because the challenged testimony was properly admitted at trial, Crawford did not demonstrate his counsel’s failure to object to admission of the testimony or counsel’s cross-examination of the victims concerning the violent acts fell below an objectively reasonable standard. Moreover, Crawford did not demonstrate his trial counsel improperly cross-examined the victims concerning Crawford’s acts of violence as the questions posed were in response to the victims’ testimonies on direct appeal. Crawford failed to demonstrate a reasonable probability of a different outcome at trial had counsel performed different actions concerning the challenged testimony. Accordingly, Crawford failed to

demonstrate his counsel's performance was deficient or resulting prejudice. Therefore, we conclude the district court did not err by denying this claim.

Fifth, Crawford argued his trial counsel was ineffective for failing to object when the State referred to information that had been stricken from the record during its rebuttal argument. During trial, a victim testified that a friend told her that Crawford had passed by her house a few times. Counsel objected to this testimony and the trial court sustained the objection. The trial court further directed the jury to disregard the victim's statement. The State briefly referenced this testimony during its rebuttal argument and counsel did not object at that time. The State should not have referred to this testimony during closing argument. However, the reference was brief and the record reveals strong evidence of Crawford's guilt was presented at trial. This evidence included the testimony of both victims concerning Crawford's use of violence, threats, and drugs to cause them to work as prostitutes and to turn their earnings over to him. In addition, evidence was admitted concerning multiple injuries a victim stated had been caused by Crawford. Those injuries included a laceration to her head, a wrist fracture, and a ruptured spleen. That victim's blood was also collected by the authorities from Crawford's residence following a violent incident. In addition, a search of Crawford's residence revealed multiple cell phones, one victim's identification documents, a book entitled "Pandering," handwritten ledgers detailing bills, pills in an unmarked bottle, and a dented frying pan a victim stated Crawford used to strike her.

Given the State's brief reference to the improper testimony during its closing argument and the strong evidence of Crawford's guilt

presented at trial, Crawford failed to demonstrate a reasonable probability of a different outcome at trial had counsel objected during the State's rebuttal argument. Accordingly, Crawford failed to demonstrate he was prejudiced by counsel's conduct. Therefore, the district court did not err by denying this claim.

Sixth, Crawford argued his trial counsel was ineffective for failing to investigate settlement payments that he received. A victim testified that Crawford received settlement money and used that money to contribute toward their living expenses. The victim further testified that the majority of Crawford's living expenses were paid with money she earned from committing acts of prostitution. Given the victim's testimony, Crawford did not demonstrate that counsel should have attempted to uncover further information concerning Crawford's settlements. Crawford failed to demonstrate a reasonable probability of a different outcome had counsel discovered additional information concerning the settlements. Accordingly, Crawford failed to demonstrate his counsel's performance was deficient or resulting prejudice. Therefore, we conclude the district court did not err by denying this claim.

Seventh, Crawford argued his trial counsel was ineffective for failing to ensure transcription of bench conferences. Bench conferences should be memorialized, "either contemporaneously or by allowing the attorneys to make a record afterward," but the appellant must demonstrate meaningful appellate review of any alleged error was precluded by the failure to memorialize the bench conference. *Preciado v. State*, 130 Nev. 40, 43, 318 P.3d 176, 178 (2014). Here, the parties made a record regarding issues that were discussed at bench conferences, and Crawford failed to

demonstrate his counsel's actions in this regard were objectively unreasonable.

Further, assuming there were issues that were discussed at a bench conference that were not later memorialized, Crawford did not demonstrate any untranscribed bench conference had significance or that meaningful appellate review was precluded by any failure to later make a record regarding the conference. Accordingly, Crawford failed to demonstrate a reasonable probability of a different outcome had counsel objected when a bench conference was not transcribed or made a later record regarding the bench conference. Accordingly, Crawford failed to demonstrate his counsel's performance was deficient or resulting prejudice. Therefore, we conclude the district court did not err by denying this claim.<sup>1</sup>

Eighth, Crawford argued his trial counsel was ineffective for failing to object to the reasonable-doubt and equal-and-exact-justice instructions. Crawford failed to demonstrate the statutorily-mandated reasonable doubt instruction was improperly given, *see* NRS 175.211; *Chambers v. State*, 113 Nev. 974, 982-83, 944 P.2d 805, 810 (1997), and he also failed to demonstrate the equal-and-exact-justice instruction was erroneously given, *see Leonard v. State (Leonard I)*, 114 Nev. 1196, 1209, 969 P.2d 288, 296 (1998) (providing that where the jury has been instructed that defendant is presumed innocent and that the State bears the burden

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<sup>1</sup>To the extent Crawford claimed the trial court erred by failing to ensure the transcription of bench conferences, this claim could have been raised on direct appeal and Crawford did not demonstrate good cause for the failure to do so and actual prejudice. *See* NRS 34.810(1)(b). Therefore, he is not entitled to relief.



of proving guilt beyond a reasonable doubt, the equal-and-exact-justice instruction does not deny defendant the presumption of innocence or lessen the burden of proof). Accordingly, Crawford did not demonstrate his counsel's performance fell below an objectively reasonable standard and he did not demonstrate a reasonable probability of a different outcome had counsel objected to the use of these instructions. Therefore, we conclude the district court did not err by denying these claims.

*Ineffective Assistance of Appellate Counsel*

Next Crawford claimed his appellate counsel was ineffective. To prove ineffective assistance of appellate counsel, a petitioner must demonstrate that counsel's performance was deficient in that it fell below an objective standard of reasonableness, and resulting prejudice such that the omitted issue would have a reasonable probability of success on appeal. *Kirksey v. State*, 112 Nev. 980, 998, 923 P.2d 1102, 1113-14 (1996). Both components of the inquiry must be shown, *Strickland*, 466 U.S. at 697. Appellate counsel is not required to raise every non-frivolous issue on appeal. *Jones v. Barnes*, 463 U.S. 745, 751 (1983). Rather, appellate counsel will be most effective when every conceivable issue is not raised on appeal. *Ford v. State*, 105 Nev. 850, 853, 784 P.2d 951, 953 (1989).

First, Crawford asserted his appellate counsel was ineffective for failing to argue the trial court improperly admitted expert testimony concerning pimp-prostitute subculture. Crawford also contended his appellate counsel should have argued on direct appeal that this expert witness gave an improper excited summary of the case. As explained previously, the trial court properly admitted expert testimony concerning the pimp-prostitute subculture and the expert's testimony did not amount

to an improper excited summary of the case. Accordingly, Crawford did not demonstrate his counsel's failure to raise these issues on direct appeal was objectively unreasonable. Crawford also did not demonstrate a reasonable likelihood of success on appeal had counsel raised these issues. For those reasons, Crawford failed to demonstrate his counsel's performance was deficient or resulting prejudice. Therefore, the district court did not err by denying these claims.

Second, Crawford asserted his appellate counsel was ineffective for failing to argue the trial court erred by admitting improper prior-bad-act evidence concerning injuries he inflicted on the victims and his threats to harm the victims. As explained previously, this evidence was properly admitted to demonstrate that Crawford committed two counts of involuntary servitude. *See* NRS 200.463(1)(a); *Shade*, 111 Nev. at 894-95, 900 P.2d at 331. As this evidence was properly admitted at trial, Crawford failed to demonstrate his counsel fell below an objectively reasonable standard by failing to raise an argument on direct appeal concerning its admittance or a reasonable likelihood of success on appeal had counsel done so. Accordingly, Crawford failed to demonstrate his counsel's performance was deficient or resulting prejudice. Therefore, the district court did not err by denying this claim.

Third, Crawford asserted his appellate counsel was ineffective for failing to argue the State committed misconduct during rebuttal argument when it referred to a victim's improper testimony concerning her friend's statements regarding Crawford passing by her home. As previously explained, the State should not have referred to the improper testimony. However, the reference was brief and there was strong evidence of

Crawford's guilt presented at trial. Further, as Crawford did not object when the State made this statement during rebuttal argument, Crawford would have had the burden to demonstrate the comment amounted to plain error. See *Jeremias v. State*, 134 Nev. 46, 50, 412 P.3d 43, 48 (2018), *cert. denied*, 139 S. Ct. 415 (Oct. 29, 2018). Given the brief reference, the strong evidence of Crawford's guilt presented at trial, and the plain-error standard, Crawford failed to demonstrate a reasonable likelihood of success on direct appeal had counsel argued the State committed misconduct during rebuttal argument. Accordingly, Crawford failed to demonstrate he was prejudiced by counsel's conduct. Therefore, the district court did not err by denying this claim.

Fourth, Crawford asserted his appellate counsel was ineffective for failing to argue the trial court improperly limited his ability to cross-examine a victim concerning the loss of custody of her child. During trial, Crawford attempted to question a victim concerning the reason her child was removed from her custody. The State raised a relevancy objection and the trial court sustained the State's objection. Outside of the presence of the jury, Crawford stated he wished to question the victim concerning the loss of custody to show the magnitude of her drug addiction. The trial court explained that it found the child-custody information to be irrelevant because additional evidence presented at trial made it "crystal clear as far as my estimation that she had a severe addiction."

"District courts are vested with considerable discretion in determining the relevance and admissibility of evidence," *Archanian v. State*, 122 Nev. 1019, 1029, 145 P.3d 1008, 1016 (2006), and Crawford failed to demonstrate the trial court abused its discretion when concluding the

victim's child custody information was irrelevant and inadmissible. Accordingly, Crawford failed to demonstrate his appellate counsel's failure to raise this issue on direct appeal fell below an objectively reasonable standard or a reasonable likelihood of success on appeal had counsel raised this claim of error. Therefore, the district court did not err by denying this claim.

Fifth, Crawford asserted his appellate counsel was ineffective for failing to argue the trial court improperly did not ensure transcription of bench conferences. As previously explained, the parties made a record regarding issues that were discussed at bench conferences and Crawford did not demonstrate that counsel's actions in this regard were unreasonable. To the extent that discussion of some issues during a bench conference were not later memorialized, Crawford did not demonstrate those discussions had significance and he did not demonstrate he was unable to receive meaningful appellate review of those issues. Accordingly, Crawford failed to demonstrate a reasonable likelihood of success on appeal had counsel raised this issue. For those reasons, Crawford failed to demonstrate his counsel's performance was deficient or resulting prejudice. Therefore, the district court did not err by denying this claim.

Sixth, Crawford asserted his appellate counsel was ineffective for failing to argue the reasonable-doubt and the equal-and-exact-justice instructions were improper. As explained previously, Crawford did not demonstrate either of the challenged instructions were improperly utilized by the trial court. Accordingly, Crawford failed to demonstrate his appellate counsel performed below an objectively reasonable standard in this regard or a reasonable likelihood of success on direct appeal had counsel raised

challenges to these instructions. Therefore, the district court did not err by denying these claims.

Next, Crawford argued he was entitled to a new trial due to the cumulative effect of counsel's errors. In light of the strong evidence of guilt presented at trial, Crawford failed to demonstrate he was entitled to relief even considering any errors cumulatively. Therefore, we conclude the district court did not err by denying this claim.

Finally, Crawford lists additional claims he raised in his pro se petition and requests review of those claims so that he may exhaust state remedies to pursue relief in federal court. However, Crawford does not provide cogent argument concerning these claims or discuss any errors he believes the district court made in its review of these claims. "It is appellant's responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court." *Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987). Because Crawford did not provide cogent argument concerning these claims, we decline to address them.

Having concluded Crawford is not entitled to relief, we  
ORDER the judgment of the district court AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Michael Villani, District Judge.  
Law Office of Christopher R. Oram  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk