

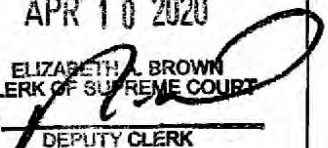
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

QUINZALE MASON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 77623-COA

**FILED**

APR 10 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Quinzale Mason appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on March 2, 2017, and a supplemental petition filed on December 8, 2017. Second Judicial District Court, Washoe County; Elliott A. Sattler, Judge.

Mason argues the district court erred by denying his claim that counsel was ineffective for failing to investigate his alibi defense. To prove ineffective assistance of 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, and the petitioner must demonstrate the underlying facts by a preponderance of the evidence, *Means v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). 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 held an evidentiary hearing on this claim. Counsel testified that the only information Mason gave him regarding his alibi was the name Sco or Cisco. Mason was unable to tell counsel where this witness lived or give even a general description of the area in which the witness lived. Counsel hired an investigator but that investigator was unable to locate the witness. Counsel asked Mason whether his girlfriend or anyone else knew where the witness lived. Mason did not provide him with any additional information.

The alibi witness also testified at the evidentiary hearing. The witness testified he and Mason hung out nearly every day and Mason's girlfriend was his cousin. The witness testified he could not remember whether Mason was with him the day of the shooting but he did remember Mason being at his house the day after the shooting when Mason was arrested. Further, the witness testified that he smoked a lot of marijuana, which has affected his memory. Mason did not testify at the evidentiary hearing.

After the evidentiary hearing, the district court concluded counsel was not deficient because counsel attempted to find the alibi witness based on the very limited information provided by Mason but was unable to do so. Further, the district court concluded Mason failed to demonstrate he was prejudiced by counsel's performance because the alibi witness was not able to provide an alibi for the day of the shooting. Moreover, the district court concluded the evidence against Mason was overwhelming based on his being identified by three separate witnesses and the statements made by Mason when he was arrested. Therefore, the

district court concluded Mason failed to demonstrate a reasonable probability of a different outcome at trial had counsel located the alibi witness. The record supports the decision of the district court. Therefore, we conclude the district court did not err by denying this claim, and we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Elliott A. Sattler, District Judge  
Law Offices of Lyn E. Beggs, PLLC  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk