

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

EDWARD JAMES LEWIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78757-COA

FILED

AUG 10 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Edward James Lewis appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on March 15, 2016, and supplemental petitions for a writ of habeas corpus filed on April 29, 2016, and February 28, 2017. Second Judicial District Court, Washoe County; Barry L. Breslow, Judge.

Lewis claims the district court erred by denying his petitions because trial counsel was ineffective. To prevail on a claim of 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 wrong 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).

Lewis claimed trial counsel was ineffective for failing to adequately review the police interview transcripts and, consequently, trial counsel was unprepared to rebut Police Officer Jason Sammons' testimony about statements that Lewis made during the interviews. Lewis asserted that, if these statements had been rebutted, there was a high probability the jury would have reached a different verdict.

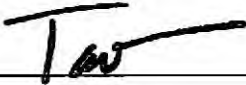
The district court conducted an evidentiary hearing and made the following findings. Trial counsel's performance fell within the bounds of objective reasonableness. Counsel conducted a thorough and well thought-out cross-examination of Officer Sammons. The interview transcripts demonstrate that Lewis made contradictory statements. If counsel had confronted Officer Sammons with the statements more favorable to Lewis' defense, then counsel would have invited the State to reexamine Officer Sammons and highlight the more damaging statements. The district court further found that Lewis failed to demonstrate he was prejudiced by counsel's performance in this regard.

The district court's findings are supported by the record and are not clearly wrong. We conclude Lewis failed to demonstrate counsel was

ineffective and the district court did not err by denying his postconviction habeas petitions. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

¹Lewis states in his appellate brief that “[o]ther allegations in the original petition and the second petition alleging that Mr. Lewis’ counsel failed to properly investigate the allegations against him, review police reports, and properly examine and cross-examine witnesses, to the extent that they support the allegations in the supplemental petitions, *should be considered in an evidentiary hearing.*” (Emphasis added.) However, the record plainly demonstrates that the district court conducted an evidentiary hearing and expressly informed the parties at the start of the evidentiary hearing that it would consider, without limitation, the arguments and evidence raised in the original habeas petition filed on March 15, 2016, the first supplemental habeas petition filed on April 29, 2016, and the second supplemental habeas petition filed on February 28, 2017. Thus, to the extent Lewis suggests there was error, we conclude there was none.

cc: Hon. Barry L. Breslow, District Judge
Edward T. Reed
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk