

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CARLOS MANUEL ELEISA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 79091-COA

FILED

APR 16 2021

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

ORDER OF AFFIRMANCE

Carlos Manuel Eleisa appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on February 16, 2017, and a supplemental petition filed on April 11, 2019. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Eleisa contends the district court erred by denying his claims of ineffective assistance of trial counsel. To demonstrate ineffective assistance of trial counsel, a petitioner must show counsel's performance was deficient in that it fell below an objective standard of reasonableness and prejudice resulted in that there was a reasonable probability of a different outcome absent counsel's errors. *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 687. 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).

First, Eleisa argued trial counsel was ineffective for failing to hire an expert witness to examine bruising on the victim, Eleisa's ex-

girlfriend. At trial, the victim testified that Eleisa's attack resulted in bruising and scratch marks on her chest, and Eleisa argued that the bruises were merely hickies and not the result of the alleged attack. In his petition, he argued that counsel should have retained a medical expert whose testimony would have supported Eleisa's trial argument and damaged the victim's credibility. Eleisa did not explain how testimony concerning hickies would have explained away the victim's scratch marks. Further, the victim's testimony was supported by testimony from the responding police officers, photographs of the injuries, and a 9-1-1 call from a neighbor who witnessed some of the attack. In light of the evidence presented at trial, Eleisa failed to demonstrate a reasonable probability of a different outcome had trial counsel consulted with a medical expert. Therefore, we conclude the district court did not err by denying this claim.

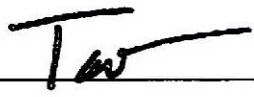
Second, Eleisa argued trial counsel was ineffective for failing to hire an expert to examine the knife allegedly used in the attack for fingerprints. Eleisa claimed his fingerprints were not present on the knife and an expert's testimony confirming that would have diminished the victim's credibility. The jury found Eleisa did not commit the crimes with the use of a deadly weapon, i.e., the knife. Despite doubting the victim's credibility about the use of the knife, the jury nevertheless convicted Eleisa of the crimes. He thus fails to demonstrate a reasonable probability of a different outcome had counsel presented additional evidence disputing the use of the deadly weapon. Therefore, we conclude the district court did not err by denying this claim.

Third, Eleisa argued the cumulative effect of trial counsel's errors in this case warrants reversal. Even if multiple instances of deficient performance may be cumulated for purposes of demonstrating prejudice, *see*

McConnell v. State, 125 Nev. 243, 259 & n.17, 212 P.3d 307, 318 & n.17 (2009), Eleisa did not demonstrate a reasonable probability of a different outcome had counsel retained and presented the testimony of medical and fingerprint experts. Therefore, we conclude the district court did not err by denying this claim. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Michelle Leavitt, District Judge
Law Office of Jim Hoffman
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk