

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CORITHIAN EDWARDS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 80407-COA

FILED

JUN 17 2021

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

ORDER OF AFFIRMANCE

Corithian Edwards appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on May 8, 2017, and a supplemental petition filed on June 15, 2018. Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

Edwards argues the district court erred by denying his claim of ineffective assistance of 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, 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).

Edwards claimed counsel was ineffective for failing to file a petition for a writ of habeas corpus ad testificandum to secure the presence of alternative suspect Terrell McBride at trial. Edwards' defense theory at trial was that McBride—not Edwards—committed the offenses for which Edwards was charged. Edwards believed McBride would have testified about a federal crime that McBride had been convicted of that was somewhat close in time and similar in nature to those Edwards was convicted of.

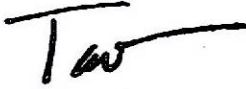
At the evidentiary hearing on Edwards' petition, counsel testified that McBride had been identified as an alternative suspect. A defense investigator contacted McBride but he became uncooperative once he found out the purpose of the contact and terminated the phone call. Counsel testified that he intended to speak with McBride but did not do so after McBride became uncooperative. Counsel further testified that he believed he could introduce the guilty plea agreement from McBride's federal case at Edwards' trial to support the defense theory. Edwards failed to demonstrate this belief was objectively unreasonable. For these reasons, Edwards failed to demonstrate counsel's failure to secure McBride's presence at trial was objectively unreasonable.

Further, Edwards failed to demonstrate how McBride's testimony about a different, if similar, crime he committed would have led to a different result at his trial. The jury heard testimony that McBride had been identified as a subject of interest and the reasons why he was not charged. Edwards, however, was identified by multiple eyewitnesses, and physical and surveillance evidence linking Edwards to the offenses was produced at trial. Thus, Edwards failed to demonstrate a reasonable probability of a different outcome had McBride testified to his own

conviction. 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. Kathleen E. Delaney, District Judge
Nguyen & Lay
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk