

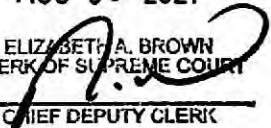
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ADRIAN MCKNIGHT,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 81612-COA

**FILED**

AUG 09 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Adrian McKnight appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on June 1, 2014, and a supplement filed on June 22, 2015. Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

McKnight argues the district court erred by denying his claims that counsel was ineffective. 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).

First, McKnight argued that counsel was ineffective for failing to inform him of a plea offer. “[D]efense counsel has the duty to communicate formal offers from the prosecution.” *Missouri v. Frye*, 566 U.S. 134, 145 (2012). To demonstrate prejudice, a petitioner “must demonstrate a reasonable probability [he] would have accepted the earlier plea offer.” *Id.* at 147. Further, a petitioner must demonstrate “a reasonable probability that the end result of the criminal process would have been more favorable by reason of a plea to a lesser charge or a sentence of less prison time.” *Id.*

After holding an evidentiary hearing, the district court found that McKnight failed to demonstrate there was a formal plea offer or that he would have accepted the plea offer. Substantial evidence in the record supports the decision of the district court. The only detail McKnight provided of this offer was that, during plea negotiations, the State told counsel there was no offer but McKnight could plead to all of the counts. McKnight failed to demonstrate this was a formal plea offer as there were no terms set forth by the State nor any timeline as to when McKnight had to accept the offer. *See id.* at 146.

Further, we conclude McKnight failed to demonstrate a reasonable probability that the end result of the criminal process would have been more favorable had he pleaded guilty. At trial, the jury found McKnight guilty of the lesser-related offense of misdemeanor battery rather than attempted murder. Thus, pleading guilty to all of the charges prior to trial would not have resulted in a conviction of lesser charges. Moreover,

because there was no sentence concession offered by the State if McKnight pleaded to all of the counts, he failed to demonstrate he would have received a lesser sentence. Thus, we conclude the district court did not err by denying this claim.

Second, McKnight claimed counsel was ineffective because there was an actual conflict of interest. McKnight claimed that because his counsel and his codefendant's counsel shared office space<sup>1</sup> and billing software, his counsel was actually representing both parties. A conflict of interest exists if "counsel actively represented conflicting interests" and the "conflict of interest adversely affected [the defendant's] lawyer's performance." *Strickland*, 466 U.S. at 692. "In general, a conflict exists when an attorney is placed in a situation conducive to divided loyalties." *Clark v. State*, 108 Nev. 324, 326, 831 P.2d 1374, 1376 (1992) (citation and internal quotation marks omitted).

After the evidentiary hearing, the district court found that while the attorneys shared office space and billing software, they were not otherwise affiliated. Further, both attorneys testified they did not engage in conversations about plea negotiations or client-specific information. Finally, the district court found McKnight failed to provide any credible evidence that a conflict existed. Substantial evidence in the record supports the decision of the district court. McKnight failed to demonstrate his counsel was actively representing conflicting interests or that any such

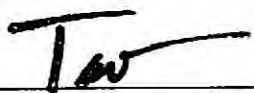
---

<sup>1</sup>The attorneys had separate offices.

conflict adversely affected counsel's performance. Therefore, we conclude the district court did not err by denying this claim.

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

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

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

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

cc: Hon. Kathleen E. Delaney, District Judge  
Adrian McKnight  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk