

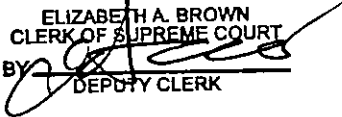
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WILLIAM CAMRON BOGAN,
Appellant,
vs.
WILLIAM GITTERE, WARDEN;
NEVADA DEPARTMENT OF
CORRECTIONS; AND THE STATE OF
NEVADA,
Respondents.

No. 88121-COA

FILED

MAR 11 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

William Camron Bogan appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on July 12, 2021, and supplemental pleadings. Eighth Judicial District Court, Clark County; Carli Lynn Kierny, Judge.

Bogan appears to argue the district court erred by denying his claim that trial counsel was ineffective for conceding Bogan's guilt during closing arguments. 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). A concession of guilt may be a

reasonable trial strategy when circumstances dictate. *Armenta-Carpio v. State*, 129 Nev. 531, 535, 306 P.3d 395, 398 (2013). However, counsel may not admit a client's guilt "over the client's intransigent objection to that admission." *McCoy v. Louisiana*, 584 U.S. 414, 426 (2018).


On direct appeal, Bogan argued trial counsel improperly conceded his guilt during closing argument without his consent. The Nevada Supreme Court determined Bogan was not entitled to relief, holding "to the extent counsel's statements [could] be viewed as a concession of guilt," Bogan did not show that such a concession was made over his objection or that it "undermined any testimonial disavowal of guilty" by Bogan. *Bogan v. State*, No. 77605, 2020 WL 6110640, *4 (Nev. Oct. 15, 2020) (Order of Affirmance). Despite the benefit of an evidentiary hearing regarding Bogan's postconviction habeas claim about trial counsel's alleged concession, Bogan offered no evidence contradicting the Nevada Supreme Court's holding. Therefore, Bogan failed to demonstrate counsel was deficient or a reasonable probability of a different result at trial but for counsel's alleged error. See *Hall v. State*, 91 Nev. 314, 315-16, 535 P.2d 797, 798-99 (1975) (holding that "[t]he law of a first appeal is the law of the case on all subsequent appeals in which the facts are substantially the same" and that "[t]he doctrine of the law of the case cannot be avoided by a more detailed and precisely focused argument" in later proceedings (internal quotation marks omitted)); *Hsu v. Cty. of Clark*, 123 Nev. 625, 630, 173 P.3d 724, 728-29 (2007) (providing that a court may revisit a prior ruling where there exists "substantially new or different evidence"). Accordingly, we conclude the district court did not err by denying this claim.

Bogan also argues his postconviction counsel was ineffective. Specifically, Bogan contends postconviction counsel: (1) abandoned his

claim that trial counsel was ineffective for conceding Bogan's guilt, (2) pursued only a "less meritorious" claim that trial counsel was ineffective for failing to present mitigating evidence at sentencing, and (3) created a conflict of interest by incorrectly arguing at the evidentiary hearing that Bogan admitted the reason he shot the victim was because he thought the victim was pulling a gun.

Because the appointment of postconviction counsel was not statutorily or constitutionally required in this matter, *see Crump v. Warden*, 113 Nev. 293, 303, 934 P.2d 247, 253 (1997); *McKague v. Warden*, 112 Nev. 159, 164, 912 P.2d 255, 258 (1996), Bogan was not entitled to the effective assistance of postconviction counsel. Therefore, we conclude Bogan is not entitled to relief based on this claim.¹ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

¹To the extent Bogan argues he is entitled to relief based on the application of *Martinez v. Ryan*, 566 U.S. 1 (2012), the Nevada Supreme Court has held that *Martinez* does not apply to Nevada's statutory postconviction procedures. *See Brown v. McDaniel*, 130 Nev. 565, 571, 331 P.3d 867, 871-72 (2014).

cc: Hon. Carli Lynn Kierny, District Judge
William Camron Bogan
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk