


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOHNNY RAY COOK,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 90867-COA

FILED

JAN 14 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Johnny Ray Cook appeals from a district court order denying a postconviction petition requesting genetic marker analysis filed on November 26, 2024. Eighth Judicial District Court, Clark County; Mary Kay Holthus, Judge.

Cook argues the district court abused its discretion in denying his petition. In his petition, Cook sought short tandem repeat analysis of two sexual assault kits impounded in his case. Cook claimed two victims testified that he forced them to perform fellatio on him, and he appeared to claim that there was a reasonable possibility he would not have been prosecuted or convicted of the charges related to that testimony if exculpatory results had been obtained.¹

¹Cook was charged with, and convicted of, two counts of sexual assault with the use of a deadly weapon for forcing two victims to perform fellatio on him at gunpoint. Although Cook's petition did not appear to seek testing in relation to his other convictions, we note that Cook was also convicted of three counts of battery with the intent to commit a crime, three counts of robbery with the use of a deadly weapon, two counts of first-degree kidnapping with the use of a deadly weapon, and three additional counts of sexual assault with the use of a deadly weapon.

A petitioner seeking genetic marker analysis must include in the petition, among other things, “[t]he rationale for why a reasonable possibility exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through a genetic marker analysis of the evidence identified.” NRS 176.0918(3)(b). And a district court may dismiss a petition for genetic marker testing if it determines the petition lacks this information. *See* NRS 176.0918(4)(a). When making this determination, a district court must first “assume that the genetic marker evidence would be exculpatory and then ask whether there is a ‘reasonable possibility’ that the petitioner would not have been convicted or prosecuted in light of the exculpatory genetic marker evidence.” *Anselmo v. State*, 138 Nev. 94, 99, 505 P.3d 846, 850 (2022). We review a district court order denying a petition for genetic marker analysis for an abuse of discretion. *Id.* at 98, 505 P.3d at 850.

The district court determined that Cook failed to demonstrate a reasonable probability that he would not have been prosecuted or convicted if exculpatory results had been obtained through the testing sought. In particular, the district court found that: (1) although DNA testing was not available at the time of the offenses, oral swabs were taken from the two victims and tested for acid phosphatase, which indicates the presence of male secretions; (2) Cook was prosecuted and convicted of the relevant charges even though these oral swabs tested negative for acid phosphatase; (3) one of the victims positively identified Cook as the perpetrator who forced his penis in her mouth; (4) the other victim testified that she vomited twice after being assaulted, and a forensic expert testified that vomiting and saliva secretions can clear the mouth of acid phosphatase and sperm; and (5) Cook told a corrections officer that he was “forced to have

sex with the two white girls at gunpoint.” The district court’s findings are supported by the record. In light of this evidence, we conclude the district court did not abuse its discretion in denying Cook’s petition.² *See Alfaro v. State*, 139 Nev. 216, 220, 534 P.3d 138, 145 (2023) (providing that the testimony of a sexual assault victim alone can be sufficient to uphold a conviction). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

²Having so concluded, we need not reach Cook’s arguments that the district court erred in denying his petition for other reasons. *See Hung v. Genting Berhad*, 138 Nev. 547, 549, 513 P.3d 1285, 1287 (Ct. App. 2022) (“[W]hen a district court provides independent alternative grounds in support of a decision later challenged on appeal, the appellant generally must *successfully challenge all of those grounds* in its appellate briefing to obtain a reversal.” (emphasis added)). Moreover, because Cook failed to meet the requirements of NRS 176.0918(3), the district court was not required to order the State to produce an inventory of the biological evidence in the case. *See* NRS 176.0918(4).

cc: Hon. Mary Kay Holthus, District Judge
Michael Lasher LLC
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk