IN THE SUPREME COURT OF THE STATE OF NEVADA

MAJUNIQUE BROWN,
Appellant,
vs.
THE STATE OF NEVADA AND NDOC,
Respondents.

No. 89731

FILED
FEB 12 2026
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

Appellant Majunique Brown was convicted at a jury trial of first-degree murder, robbery, kidnapping, conspiracy to commit robbery, and conspiracy to commit kidnapping. This court affirmed the judgment of conviction on direct appeal. *Brown v. State*, No. 78671, 2020 WL 7351278 (Nev. Dec. 14, 2020) (Order of Affirmance). Brown contends the district court erred by denying her postconviction habeas petition, which alleged claims of ineffective assistance of trial and appellate counsel, without conducting an evidentiary hearing.

To prevail on a claim of ineffective assistance of counsel, the petitioner must show that counsel's performance fell below an objective standard of reasonableness, and that the deficient performance prejudiced the defense. *Kirksey v. State*, 112 Nev. 980, 987, 923 P.2d 1102, 1107 (1996). To demonstrate prejudice, the petitioner "must show a reasonable probability that, but for counsel's errors, the result of the trial would have

been different." *Id.* at 988, 998, 923 P.2d at 1107, 1113-14 (citing *Strickland v. Washington*, 466 U.S. 668, 689 (1984)). Both components of the inquiry must be shown. *Strickland*, 466 U.S. at 697. 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). To be entitled to an evidentiary hearing, the petitioner must support a claim with specific factual allegations, which are not belied by the record. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). We defer to the district court's factual findings in resolving a claim of ineffective assistance of counsel so long as those findings are supported by substantial evidence and not clearly erroneous. *Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005). We review the district court's application of the law to those findings de novo. *Id.*

Failure to file a pretrial petition for habeas corpus

Brown first argues trial counsel should have filed a pretrial habeas petition to dismiss the indictment because some testimony before the grand jury was improper. Brown specifically challenges the testimony of two detectives regarding the nature of the victim's wounds as improper expert testimony and hearsay. Even without this testimony, however, the other evidence, such as admissible lay testimony from both detectives as well as the victim's death certificate stating the cause and manner of death, constituted slight or marginal evidence sufficient to establish probable cause that Brown committed the crimes charged. *See Robertson v. State*, 84 Nev. 559, 561-62, 445 P.2d 352, 353 (1968) (recognizing that an indictment will be sustained so long as "there [was] the slightest sufficient legal evidence" presented). The indictment need only be sustained by slight or marginal legal evidence, even if inadmissible evidence was also presented to the grand jury. *See id.* Thus, a pretrial habeas petition would not have

been successful. As such, Brown failed to demonstrate deficient performance or prejudice. *Ennis v. State*, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006) ("Trial counsel need not lodge futile objections to avoid ineffective assistance of counsel claims."). The district court therefore did not err by denying this ineffective-assistance claim without conducting an evidentiary hearing.

Failure to properly challenge admission of recorded conversation

Brown next argues trial counsel should have made additional efforts to exclude the recorded conversation between Brown and her partner, Marshan Bowden. We disagree. Brown and Bowden, who was a codefendant and pleaded guilty, were pulled over in Arizona. They were briefly detained in the back of the Arizona officer's police car, where a camera recorded Brown and Bowden's conversation. Bowden successfully moved to suppress the recording as a violation of Arizona's statute requiring one-party consent to record a conversation. The State petitioned for a writ of mandamus directing the district court to admit the video, which the Court of Appeals granted over Brown's opposition. *State v. Eighth Jud. Dist. Ct.*, No. 69011, 2016 WL 197116 (Nev. Ct. App. Jan. 11, 2016) (Order Granting Petition).

Brown contends that trial counsel should have petitioned this court to review the Court of Appeals decision granting the State's pretrial petition for a writ of mandamus. Decisions of the Court of Appeals are final decisions, subject only to discretionary review by this court. NRAP 40B (outlining factors considered when this court exercises its discretion on a petition for review). While Brown argues her case is factually distinct from the Arizona and federal cases relied upon by the Court of Appeals, Brown fails to identify any conflict with controlling law or any issue of statewide importance for which we would have granted a petition for review. *See id.*

Thus, Brown failed to demonstrate deficient performance or prejudice, and the district court did not err in denying this claim.

Relatedly, Brown contends trial and appellate counsel should have raised Confrontation Clause challenges to the same video. The trial-counsel claim is belied by the record, which reflects that trial counsel objected twice to admission of the video as a violation of the Confrontation Clause. Thus, the district court did not err in denying the trial-counsel claim. *Hargrove*, 100 Nev. at 503, 686 P.2d at 225 ("A defendant seeking post-conviction relief is not entitled to an evidentiary hearing on factual allegations belied or repelled by the record.").

As to appellate counsel's failure to raise a Confrontation Clause challenge to the video, we conclude Brown has not demonstrated either deficient performance or prejudice. It is not deficient performance to focus on the appellate claims most likely to be successful. *See Kirksey*, 112 Nev. at 998, 923 P.2d at 1113 ("Effective assistance of appellate counsel does not mean that appellate counsel must raise every non-frivolous issue."). Instead, Brown "must show that the omitted issue would have a reasonable probability of success on appeal." *Id.* at 998, 923 P.2d at 1114. The Confrontation Clause bars admission of out-of-court statements at trial when those statements are testimonial in nature. *Medina v. State*, 122 Nev. 346, 353, 143 P.3d 471, 476 (2006). Statements are testimonial if an objective witness would reasonably believe their statements would be available for later use at trial. *Id.* at 354, 143 P.3d at 476. We are unconvinced Bowden would reasonably believe his surreptitious conversation with Brown would be used later at trial, so his statements on the video were not testimonial. Because Bowden's statements were non-testimonial, a Confrontation Clause argument for their exclusion bore no

probability of success on appeal. Thus appellate counsel was not deficient, and no prejudice resulted, and we conclude the district court did not err by denying this claim.

Failure to object to unnoticed expert testimony

Brown argues trial counsel should have objected to unnoticed expert testimony about blood stain patterns. Two detectives, both lay witnesses, testified about blood stain patterns found where the victim was killed. Counsel objected to each witness's testimony, arguing that the State was presenting expert testimony without having given proper notice. Brown's allegations are therefore belied by the record, and the district court properly denied this claim. *Hargrove*, 100 Nev. at 503, 686 P.2d at 225 ("A defendant seeking post-conviction relief is not entitled to an evidentiary hearing on factual allegations belied or repelled by the record.").

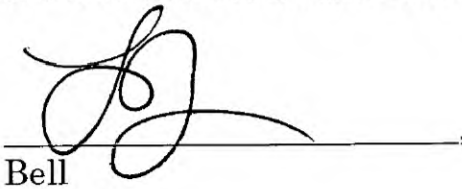
Failure to challenge sufficiency of the evidence establishing kidnapping

Brown asserts trial counsel should have filed a motion for a judgment of acquittal on the kidnapping charge and appellate counsel should have challenged the sufficiency of the evidence supporting this conviction because no evidence showed the victim was still alive when Brown loaded the victim into the trunk of a car to flee. On the contrary, there was evidence that the victim was alive when placed in the car. A security guard heard the injured victim attempting to speak shortly before being placed in the car, which Brown corroborated in her own testimony. Thus, any motion for a judgment of acquittal would have been fruitless, and trial counsel was not ineffective for failing to make this argument. *See Ennis*, 122 Nev. at 706, 137 P.3d at 1103. Likewise, Brown failed to demonstrate that appellate counsel's omission of the insufficient-evidence challenge on appeal constituted deficient performance or prejudice. Therefore, the district court did not err in denying these claims.

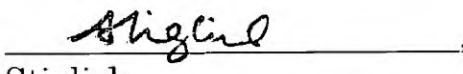
Cumulative error

Brown contends the above claimed errors amount to cumulative error requiring reversal. Even assuming that multiple errors may be cumulated to demonstrate prejudice in a postconviction context, *see McConnell v. State*, 125 Nev. 243, 259 n.17, 212 P.3d 307, 318 n.17 (2009), Brown has not shown any instances of deficient performance to cumulate.

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



_____, J.
Bell



_____, J.
Stiglich

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cc: Hon. Tierra Danielle Jones, District Judge
Law Office of Betsy Allen
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk