

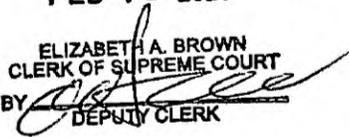
IN THE SUPREME COURT OF THE STATE OF NEVADA

COLE ENGELSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 90388

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. Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

A jury convicted appellant Cole Engelson of first-degree murder for killing his girlfriend's three-year-old daughter during the commission of child abuse. The district court sentenced Engelson to life in prison without the possibility of parole. This court affirmed the judgment of conviction on direct appeal. *Engelson v. State*, No. 82691, 2022 WL 831471 (Nev. Mar. 18, 2022) (Order of Affirmance). Engelson argues that the district court erred in denying the postconviction habeas petition, which alleged numerous claims of ineffective assistance of trial counsel. We disagree and affirm.

To demonstrate ineffective assistance of counsel, a petitioner must show that counsel's deficient performance fell below an objective standard of reasonableness, and that the prejudice from the deficient performance creates a reasonable probability that there would have been a different outcome absent counsel's errors. *Strickland v. Washington*, 466 U.S. 668, 687-88 (1984); *see also Warden v. Lyons*, 100 Nev. 430, 432, 683

P.2d 504, 505 (1984) (adopting the *Strickland* test). In assessing deficiency, counsel is strongly presumed to have provided adequate assistance and exercised reasonable professional judgment in all significant decisions. *Strickland*, 466 U.S. at 690. “With respect to the prejudice prong, ‘[a] reasonable probability is a probability sufficient to undermine confidence in the outcome.’” *Johnson v. State*, 133 Nev. 571, 576, 402 P.3d 1266, 1273 (2017) (quoting *Strickland*, 466 U.S. at 694). Both prongs must be shown to prevail. *Strickland*, 466 U.S. at 697. An evidentiary hearing is required when the petitioner raises claims supported by specific facts that are not belied by the record and that, if true, would entitle the petitioner to relief. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984). We defer to the district court’s factual findings that are supported by substantial evidence and not clearly wrong but review its application of the law to those facts de novo. *Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005).

Failure to hire an investigator

Engelson first argues that trial counsel should have retained an investigator to seek out witnesses to testify at trial. But Engelson does not identify what witnesses an investigator might have located. *See Moore v. State*, 134 Nev. 262, 266, 417 P.3d 356, 361 (2018) (“[T]he duty to investigate does not force defense lawyers to scour the globe on the off chance something might turn up.” (internal quotation marks omitted)). Nor does Engelson’s bare claim specify what beneficial evidence any witness could have provided, particularly where Engelson admitted he was alone with the three-year-old victim when she sustained numerous blunt-force injuries. *See Chappell v. State*, 137 Nev. 780, 788, 501 P.3d 935, 950 (2021) (stating a petitioner alleging ineffective assistance “must *specifically explain* how

his attorney's performance was objectively unreasonable" and "specifically articulate how counsel's deficient performance prejudiced him" (internal quotation marks omitted)). In discussing the investigation, Engelson further asserts that counsel should have interviewed all testifying witnesses before trial. Engelson has not identified who counsel should have interviewed or how this impacted cross-examination of any witness. Engelson failed to allege specific facts indicating counsel's performance was deficient or a reasonable probability of a different outcome but for counsel's errors. We therefore conclude that the district court did not err in denying this ineffective-assistance claim without conducting an evidentiary hearing.

Motion to disqualify the district attorney's office

Engelson asserts that trial counsel cited incorrect case law in a pretrial motion to disqualify the Nye County District Attorney's Office. In 2014, this court overturned *Collier v. Legakes*, 98 Nev. 307, 646 P.2d 1219 (1982), to the extent *Collier* espoused the appearance-of-impropriety standard for determining whether an individual attorney's conflict should be imputed to an entire government office. See *State v. Eighth Jud. Dist. Ct. (Zogheib)*, 130 Nev. 158, 164, 321 P.3d 882, 886 (2014). Trial counsel therefore fell below an objective standard of reasonableness by heavily relying on *Collier* in a written motion filed in 2020. Nevertheless, trial counsel identified this mistake and argued the correct law at the hearing on the motion. The district court acknowledged this oversight, considered trial counsel's oral arguments, and applied the appropriate fair-trial standard in denying the motion to disqualify. See *id.* This court affirmed the district court's denial on direct appeal, noting that "the evidence [did] not support that Engelson's prior attorney was not properly screened off the case or that any prejudice was fairly imputed to the entire office." *Engelson*, 2022 WL

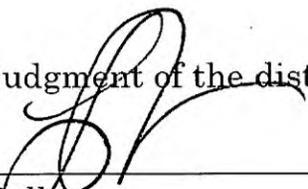
831471, at *1 n.1. The evidence would not have supported disqualification of the entire district attorney's office under either standard. Moreover, Engelson has not raised any claims that any conflict impacted the trial. Because Engelson has not shown any prejudice, we conclude that the district court did not err in denying this ineffective-assistance claim without conducting an evidentiary hearing.

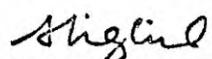
Failure to offer mitigating evidence at sentencing

Lastly, Engelson argues that trial counsel should have investigated and presented mitigating evidence, such as character letters from employers or other members of the community, at sentencing. But, as in the claims above, Engelson failed to identify any specific witnesses trial counsel should have sought out. Furthermore, counsel argued at sentencing that Engelson held the same job for 17 years, maintained sole custody of his son, and had friends and family who continued to voice their support. It is doubtful that additional character references would have resulted in a different sentence, especially given the brutality of the crime for which Engelson was convicted. Because Engelson failed to demonstrate deficient performance or prejudice, the district court did not err in denying this ineffective-assistance claim without conducting an evidentiary hearing.

Having concluded that Engelson failed to demonstrate relief is warranted, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Bell


_____, J.
Stiglich


_____, J.
Cadish

cc: Hon. Robert W. Lane, District Judge
David H. Neely, III
Attorney General/Carson City
Nye County District Attorney
Nye County Clerk