

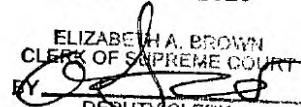
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MELVIN COLLINS,
Appellant,
vs.
WARDEN J. HENLEY AND THE
STATE OF NEVADA,
Respondents.

No. 91593-COA

FILED

JUN 03 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Melvin Collins appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on August 26, 2025. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

Collins was convicted, pursuant to a jury verdict, of murder of a victim 60 years of age or older, robbery, obtaining and using the personal identification information of another, 52 counts of fraudulent use of a credit or debit card, and 52 counts of burglary. Collins' convictions arise from an attack where Collins entered 76-year-old Don Ahern's apartment, killed Ahern by strangulation, and later reentered Ahern's apartment and stole personal property, prescription painkillers, and a debit card. Collins tried to sell the personal property and used the debit card to make numerous purchases. Collins was adjudicated a habitual criminal and received concurrent and consecutive prison sentences including life without the possibility of parole. The supreme court affirmed the judgment of conviction

on direct appeal. See *Collins v. State*, No. 86778, 2024 WL 4658200 (Nev. Oct. 31, 2024) (Order of Affirmance).

Collins filed the instant petition pro se, alleging the ineffective assistance of trial and appellate counsel and various other claims. Collins also filed a motion for the appointment of counsel. The district court denied the petition and motion without conducting an evidentiary hearing.

On appeal, Collins argues the district court erred by denying his claims of ineffective assistance of trial counsel.¹ 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. 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). A petitioner must raise claims supported by specific factual allegations that are not belied by the record and, if true, would entitle the petitioner to relief. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

¹Collins does not argue that the district court erred by denying his claims of ineffective assistance of appellate counsel or his motion for the appointment of counsel; therefore, we do not consider those matters.

First, Collins appeared to claim counsel was ineffective for failing to investigate a “conflict of interest”: whether a witness, Doreen Murphy, received benefits from the State in exchange for her testimony. Collins contended that Murphy had several felony drug cases that were reduced to misdemeanors and that counsel relied on the prosecutor to tell him about any benefits given to Murphy.

Collins’ claim is belied by the record. On the fourth day of trial, defense counsel indicated outside the presence of the jury that Murphy had several criminal charges against her, that he could not figure out how the cases had resolved, and that he wanted to inquire into whether the State provided Murphy any favors on those charges. The prosecutor indicated that he was not aware of any benefits given to Murphy, but that he would contact the prior prosecutor to confirm this. The next day, defense counsel requested an outside-the-presence examination of Murphy to determine if she had been provided any benefits in exchange for her testimony. Murphy testified that she did not ask the State for any favors on her cases, nor did she believe that a prior charge had been reduced to a misdemeanor due to her participation in this case.

In light of this record, Collins failed to allege specific facts indicating counsel was deficient or a reasonable probability of a different outcome at trial had counsel investigated that issue further. *See Chappell v. State*, 137 Nev. 780, 788, 501 P.3d 935, 950 (2021) (stating “a petitioner must do more than baldly assert that his attorney could have, or should have, acted differently” and “must *specifically explain* how his attorney’s performance was objectively unreasonable” (quotation marks omitted)).

Accordingly, we conclude the district court did not err by denying this claim.²

Second, Collins claimed counsel was ineffective for failing to present mitigating evidence at sentencing. Collins' bare claim did not specify what mitigating evidence counsel failed to present at sentencing. To the extent Collins contended counsel should have argued he was entitled to presentence credit, the record indicates that Collins was previously convicted of second-degree murder, that he received a life sentence for that offense, and that he was on parole for that offense at the time he committed the instant offenses. Thus, Collins failed to allege specific facts indicating counsel was deficient or a reasonable probability of a different outcome at sentencing had counsel argued for presentence credit.³ See NRS 176.055(2)(b); cf. *Ennis v. State*, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006) ("Trial counsel need not lodge futile objections to avoid ineffective

²To the extent Collins claimed pretrial counsel had a conflict of interest because Murphy was previously represented by the public defender's office in a criminal case, the trial court ultimately removed the public defender's office from Collins' case and appointed Collins new counsel as a result of this conflict. Collins failed to specify how this conflict adversely affected either pretrial counsel or trial counsel's performance, and he did not allege specific facts indicating trial counsel had an actual conflict. See *Clark v. State*, 108 Nev. 324, 326, 831 P.2d 1374, 1376 (1992); *Cuyler v. Sullivan*, 446 U.S. 335, 349-50 (1980). Thus, we conclude the district court did not err by denying this claim.

³We also note that, at the sentencing hearing, counsel argued Collins should receive a sentence of 20 to 50 years on the murder charge based in part on the fact that Collins had "served a lot of time" in custody but would not be receiving any presentence credit for that time.

assistance of counsel claims.”). Accordingly, we conclude the district court did not err by denying this claim.

Third, Collins claimed counsel was ineffective for failing to investigate why Murphy “would see [him] at freemont [sic] experience and ask [him] to buy her a beer.” Collins claimed an investigation would have shown that detectives sent Murphy to talk to him. At trial, Murphy testified that she lived next door to Ahern, that their apartments shared a wall, and that she heard noise coming from Ahern’s apartment the night Ahern was killed. She testified that she heard Ahern say, among other things, “Let me go. Let me go,” that she went over and knocked on Ahern’s door, and that somebody else said “get away from the door, bitch,” so she went back to her apartment. She further testified that she initially told the police she did not recognize the latter voice, but that she subsequently encountered Collins at a casino, recognized his voice, and told the police that Collins was the person who spoke to her through Ahern’s door.

Collins’ bare claim did not explain why Murphy’s motive for speaking to him at the casino was relevant. To the extent Collins believed such evidence could have impeached Murphy’s credibility, counsel thoroughly challenged Murphy’s credibility both on cross-examination and in closing argument, and Collins failed to explain how an investigation into Murphy’s motives would have affected the proceedings. Thus, Collins failed to allege specific facts indicating counsel was deficient or a reasonable probability of a different outcome at trial had counsel investigated Murphy’s motive for speaking to Collins at a casino. Accordingly, we conclude the district court did not err by denying this claim.

Fourth, Collins claimed counsel was ineffective for failing to investigate an alibi defense. He claimed that counsel did not investigate the manager of the Siegel Suites apartment complex and that such an investigation “could have proved alibi and suspects.” Collins’ bare claim did not specify what his alibi was, *see Alibi, Black’s Law Dictionary* (12th ed. 2024) (defining an “alibi” as “[a] defense based on the physical impossibility of a defendant’s guilt by placing the defendant in a location other than the scene of the crime at the relevant time”), or what investigating the manager of the Siegel Suites would have revealed, *see Molina v. State*, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004) (stating a petitioner claiming counsel did not conduct an adequate investigation must specify what a more thorough investigation would have uncovered). Thus, Collins failed to allege specific facts indicating counsel was deficient or a reasonable probability of a different outcome at trial had counsel investigated an alibi defense. Accordingly, we conclude the district court did not err by denying this claim.

Fifth, Collins claimed counsel was ineffective for failing to call Bobbi-Jo Dunlap, who was in Murphy’s apartment with Murphy when Ahern was killed. Collins contended that Dunlap would have testified she did not hear anything through the shared wall.⁴ In the opening statement, counsel played audio for the jury in which Dunlap told the police she did not hear any noises. Moreover, counsel argued in closing that, although

⁴To the extent Collins claimed Dunlap may have had information regarding Murphy’s motivations for testifying, Collins failed to allege specific facts indicating counsel was deficient or a reasonable probability of a different outcome at trial had counsel called Dunlap.

Murphy purportedly heard noise through the shared wall, “no one else heard a word,” and counsel highlighted the State’s failure to call Dunlap even though she was in the apartment with Murphy. In light of this record, Collins failed to allege specific facts indicating counsel was deficient or a reasonable probability of a different outcome at trial had counsel called Dunlap as a witness. *See Chappell*, 137 Nev. at 788, 501 P.3d at 950. Accordingly, we conclude the district court did not err by denying this claim.

Sixth, Collins claimed counsel was ineffective for failing to call an audio expert. The district court found that counsel’s decision not to call an audio expert was strategic in nature. This finding is supported by the record,⁵ and Collins failed to allege extraordinary circumstances sufficient to challenge counsel’s strategic decision. *See Doleman v. State*, 112 Nev. 843, 848, 921 P.2d 278, 280-81 (1996) (“A strategy decision, such as who should be called as a witness, is a tactical decision that is virtually unchallengeable absent extraordinary circumstances.” (internal quotation marks omitted)). Thus, Collins failed to allege specific facts indicating counsel was deficient or a reasonable probability of a different outcome at trial had counsel called an audio expert. Accordingly, we conclude the district court did not err by denying this claim.

Seventh, Collins generally claimed counsel was ineffective for failing to present a defense or investigate the charges, the facts, witnesses,

⁵The record indicates that counsel retained two acoustic engineers, Michael Schwob and Durand Begault, that Schwob was unavailable at the time of trial, and that counsel specifically informed the trial court that he was making a tactical decision not to introduce Begault’s testimony.

search warrants, or an unsigned police report. Collins' claim was bare and conclusory, failing to allege specific facts indicating counsel was deficient or a reasonable probability of a different outcome at trial but for counsel's errors. *See Chappell*, 137 Nev. at 788, 501 P.3d at 950. Accordingly, we conclude the district court did not err by denying this claim.

Collins also argues the district court erred by denying his claims that (1) Murphy was not competent to testify and her testimony was inconsistent, flawed, or otherwise false; (2) there was insufficient evidence to support his convictions; (3) the State committed prosecutorial misconduct; and (4) the "whole prosecution" was "fruit of a poisonous tree" because the State knew or should have known Murphy's testimony was false. These claims could have been presented to the trial court or raised on direct appeal and were therefore procedurally barred absent a demonstration of good cause and actual prejudice.⁶ *See* NRS 34.810(1)(b);

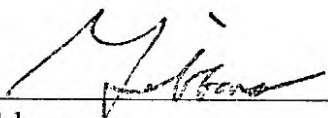
⁶Collins argued on direct appeal that there was insufficient evidence to support his convictions; thus, this claim was further barred pursuant to the law of the case doctrine. *See Hall v. State*, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975) ("The law of a first appeal is the law of the case on all subsequent appeals in which the facts are substantially the same." (quotation marks omitted)). To the extent Collins claimed counsel was ineffective for failing to file a "motion for dismissal" or a "motion of insufficient evidence," such a motion would have been futile in light of the supreme court's decision on direct appeal, and we conclude Collins failed to demonstrate counsel was deficient or a reasonable probability of a different outcome at trial had counsel filed such a motion. *See Collins*, No. 86778, 2024 WL 4658200, at *3 (concluding there was sufficient evidence to support Collins' convictions); *see also Kassa v. State*, 137 Nev. 150, 152, 485 P.3d 750, 755 (2021) (stating a district court "decides a motion for a judgment of

NRS 34.810(4). Collins did not allege good cause in his petition below; thus, we conclude the district court did not err by denying these claims. See *Chappell*, 137 Nev. at 787, 501 P.3d at 949 (stating “a petitioner’s explanation of good cause and prejudice for each procedurally barred claim must be made on the face of the petition”).

For the foregoing reasons,⁷ we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

acquittal . . . based on a sufficiency of the evidence standard”); cf. *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.”).

⁷To the extent Collins raises claims not specifically discussed in this order, we have considered the same and conclude that they do not present a basis for relief.

cc: Hon. Jacqueline M. Bluth, District Judge
Melvin Johnathan Collins
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk