

IN THE SUPREME COURT OF THE STATE OF NEVADA

RONALD JAY CONLIN, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 39083

FILED

OCT 29 2002

ORDER OF AFFIRMANCE

JANETTE M. BLOCH  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

This is an appeal from an order of the district court denying appellant Ronald Conlin, Jr.'s post-conviction petition for a writ of habeas corpus.

Conlin was convicted, pursuant to a jury verdict, of three felony counts of uttering a forged instrument and one gross misdemeanor count of unlawful taking of a motor vehicle. Conlin was sentenced to serve three concurrent terms of 12 to 34 months in the Nevada State Prison for the forgeries, and one concurrent year in jail for the misdemeanor conviction. Conlin appealed, and this court affirmed Conlin's judgments of conviction.<sup>1</sup> Conlin then filed a petition for a writ of habeas corpus in the district court. The State filed an answer and a motion to dismiss the petition. The district court summarily denied the petition without conducting an evidentiary hearing. This appeal followed.

Conlin's sole contention on appeal is that his trial counsel was ineffective for failing to present evidence at trial that Conlin had received a disability check before the police arrested him for forging checks. The presence of this check in his bank account, Conlin argues, demonstrates that he had funds to reimburse the victim, his grandmother, from whose

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<sup>1</sup>Conlin v. State, Docket Nos. 36100 and 36101 (Order Dismissing Appeals, July 26, 2000).

bank account he had forged and cashed three checks. We conclude that Conlin's argument lacks merit.

To state a claim of ineffective assistance of counsel sufficient to invalidate a judgment of conviction, a petitioner must demonstrate that counsel's performance fell below an objective standard of reasonableness, and that counsel's errors were so severe that they rendered the jury's verdict unreliable.<sup>2</sup> The court need not consider both parts of the Strickland test if the petitioner fails to make a showing on either part.<sup>3</sup> The petitioner is entitled to an evidentiary hearing only if he supports his claims with specific factual allegations which, if true, would entitle him to relief.<sup>4</sup>

We conclude that this claim is meritless because Conlin did not show, and could not show, that the jury verdict was unreliable because of counsel's alleged error. Even if his counsel had informed the jury about his disability check, the verdict would not have been different. His ability to make restitution to his grandmother did not negate an element of the charged offense of uttering a forged instrument or provide a defense to that crime. Moreover, the evidence at trial showed that Conlin did not have permission from his grandmother to forge the checks, but that he repaid her the forged amounts before trial. Thus, evidence of restitution

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<sup>2</sup>Strickland v. Washington, 466 U.S. 668 (1984); Warden v. Lyons, 100 Nev. 430, 683 P.2d 504 (1984).

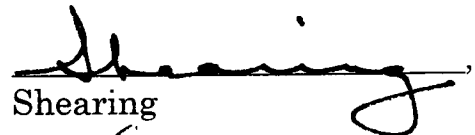
<sup>3</sup>Strickland, 466 U.S. at 697.


<sup>4</sup>Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984).

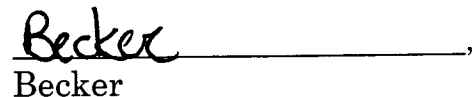
was in fact presented to the jury, and evidence of the disability check would have been cumulative as well as immaterial.<sup>5</sup>

Having considered Conlin's claim and concluded that it lacks merit, we

ORDER the judgment of the district court AFFIRMED.<sup>6</sup>

 J.  
Shearing

 J.  
Leavitt

 J.  
Becker

cc: Hon. Brent T. Adams, District Judge  
Scott W. Edwards  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk

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<sup>5</sup>The State contends that Conlin's petition should have been denied on procedural grounds because it was not properly verified according to NRS 34.730(1). See Sheriff v. Scalo, 96 Nev. 776, 616 P.2d 402 (1980). We note that the petition is verified but not in precise compliance with statutory requirements. However, we need not reach this procedural issue because the petition lacks substantive merit and we affirm on that basis.

<sup>6</sup>We caution the district court that it is required to enter findings of fact and conclusions of law pursuant to NRS 34.830(1). Further lack of compliance in the future may necessitate remand back to the district court for entry of such findings and conclusions.