

IN THE SUPREME COURT OF THE STATE OF NEVADA

MESFUN HAGOS GOITOM A/K/A  
MESFIN HAGOS GOITOM A/K/A  
MISFIN H. GOITOM,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 39103

FILED

SEP 09 2002

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying appellant Mesfun Hagos Goitom's post-conviction petition for a writ of habeas corpus.

On August 24, 1999, Goitom was convicted, pursuant to a jury verdict, of one count of theft. The district court sentenced Goitom to serve a prison term of 12 to 32 months and then suspended execution of the sentence placing Goitom on probation for a period of 2 years. Goitom filed a direct appeal, and this court affirmed his conviction.<sup>1</sup>

On July 11, 2000, with the assistance of counsel, Goitom filed a post-conviction petition for a writ of habeas corpus. The State opposed

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<sup>1</sup>Goitom v. State, Docket No. 34765 (Order Dismissing Appeal, March 30, 2000).

the petition. After conducting an evidentiary hearing, the district court denied the petition. Goitom filed the instant appeal.

Goitom claims that his trial counsel was ineffective in failing to present witness testimony from Linda Louhong and Robert Laferamboise to corroborate Goitom's testimony that he paid the \$1,000.00 jackpot he was accused of taking to a customer. We conclude that the district court did not err in rejecting Goitom's claims.

In order to prevail on a claim of ineffective assistance of counsel, a defendant must show: (1) that his counsel's performance fell below an objective standard of reasonableness; and (2) that but for counsel's deficient performance, the outcome of the proceedings would have been different.<sup>2</sup>

The district court found that trial counsel acted reasonably in preparing for trial and, therefore, was not ineffective. The district court's factual findings regarding a claim of ineffective assistance of counsel are entitled to deference when reviewed on appeal.<sup>3</sup> Goitom has not demonstrated that the district court's findings of fact are not supported by

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<sup>2</sup>Strickland v. Washington, 466 U.S. 668, 687, 694 (1984); Kirksey v. State, 112 Nev. 980, 987, 923 P.2d 1102, 1107 (1996).


<sup>3</sup>See Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994).

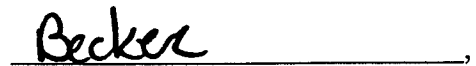
substantial evidence or are clearly wrong.<sup>4</sup> Moreover, Goitom has not demonstrated that the district court erred as a matter of law.<sup>5</sup>

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Shearing

  
\_\_\_\_\_, J.  
Leavitt

  
\_\_\_\_\_, J.  
Becker

cc: Hon. J. Michael Memeo, District Judge  
Marvel & Kump, Ltd.  
Attorney General/Carson City  
Elko County District Attorney  
Elko County Clerk

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<sup>4</sup>See id.

<sup>5</sup>See id.