

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUDE TROY CZIBOK,  
Appellant,  
vs.  
WARDEN, NEVADA STATE PRISON,  
DONALD HELLING,  
Respondent.

No. 41867

FILED

MAR 01 2004

ORDER OF AFFIRMANCE

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

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

Appellant was originally convicted, pursuant to a jury verdict, of one count of trafficking in a controlled substance. The district court sentenced appellant to serve a term of 25 years, with parole eligibility after 10 years in the Nevada State Prison. The district court further ordered appellant to pay a fine in the amount of \$10,000.00.

Appellant filed a timely notice of appeal, and this court affirmed the judgment of conviction.<sup>1</sup> The remittitur issued on December 11, 2001.

On April 25, 2002, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The district court appointed counsel, and counsel filed a supplement to the petition on October 7, 2002. The district court conducted an evidentiary hearing, and on June 27, 2003, the district court denied appellant's petition. This appeal followed.

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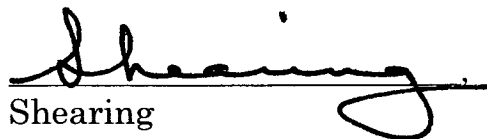
<sup>1</sup>Czibok v. State, Docket No. 35951 (Order of Affirmance, November 13, 2001).

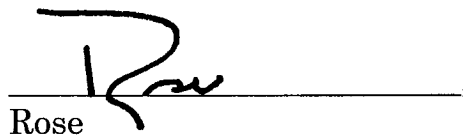
Appellant contends that the district court erred by denying his claim that trial counsel was ineffective for failing to obtain appellant's consent to waive the right to a preliminary hearing within 15 days. At the evidentiary hearing, appellant testified that he did not consent to a continuance of the preliminary hearing. Trial counsel testified that appellant did consent.


The district court specifically found that trial counsel's testimony was more credible than appellant's testimony, and that appellant did consent to the waiver. The district court's factual findings regarding a claim of ineffective assistance of counsel are entitled to deference when reviewed on appeal.<sup>2</sup> Our review of the record reveals that the district court's findings are supported by substantial evidence, and we conclude that appellant has not demonstrated that the district court erred by denying the petition.

Having considered appellant's contention and concluded that it is without merit, we

ORDER the judgment of the district court AFFIRMED.

 C.J.  
Shearing

 J.  
Rose

 J.  
Maupin

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

cc: Hon. David A. Huff, District Judge  
Wayne A. Pederson  
Attorney General Brian Sandoval/Carson City  
Churchill County District Attorney  
Churchill County Clerk