

IN THE SUPREME COURT OF THE STATE OF NEVADA

ERNEST JORD GUARDADO,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 55033

FILED

SEP 29 2010

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *A. Ingersoll*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Ernest Guardado's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Robert H. Perry, Judge.

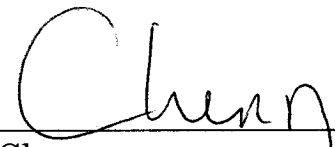
Guardado contends that the district court erred by denying his claim that trial counsel was ineffective for failing to call a witness who would have testified that Guardado was not the person depicted in the photograph of the alleged robber.


When reviewing the district court's resolution of an ineffective-assistance claim, we give deference to the court's factual findings if they are 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). Here, the district court found that in light of the overwhelming evidence, any error was harmless beyond a reasonable doubt and denied Guardado's petition. See Strickland v. Washington, 466 U.S. 668, 687 (1984) (establishing two-part test for ineffective-assistance-of-counsel); Kirksey v.

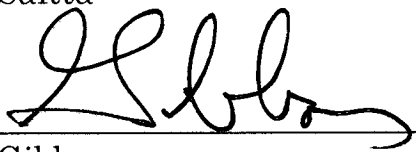
State, 112 Nev. 980, 988, 923 P.2d 1102, 1107 (1996) (adopting Strickland).

We conclude that Guardado has failed to demonstrate that the district court erred because he has failed to provide the trial transcripts for this court's review. See Thomas v. State, 120 Nev. 37, 43 n.4, 83 P.3d 818, 822 n.4 (2004) (an appellant is ultimately responsible for providing this court with portions of the record necessary to resolve his claims on appeal); Strickland, 466 U.S. at 695 (in evaluating an ineffective-assistance claim, "the question is whether there is a reasonable probability that, absent [counsel's] errors, the fact finder would have had a reasonable doubt respecting guilt"). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Robert H. Perry, District Judge  
Scott W. Edwards  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk