

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES ANTON HUNT,  
Appellant,  
vs.  
WILLIAM DONAT, WARDEN, NEVADA  
STATE PRISON,  
Respondent.

No. 57851

**FILED**

SEP 14 2011

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *H. Ingersoll*  
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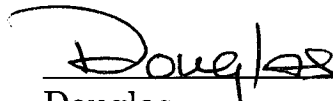
ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Charles Anton Hunt's post-conviction petition for a writ of habeas corpus. Fourth Judicial District Court, Elko County; Andrew J. Puccinelli, Judge.

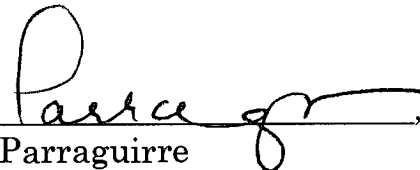
Hunt contends that the district court abused its discretion by finding that defense counsel did not deprive him of a direct appeal. A claim that counsel failed to perfect an appeal is a claim of ineffective assistance of counsel. See Lozada v. State, 110 Nev. 349, 354, 871 P.2d 944, 947 (1994). When reviewing the district court's resolution of an ineffective-assistance claim, we give deference to the 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). Here, the district court conducted an evidentiary hearing during which both Hunt and defense counsel testified. The district court found that Hunt only offered his own testimony as evidence that he requested an appeal. Hunt claimed that he talked with defense counsel before the judgment of conviction was entered about appealing his sentence and he tried to reach defense counsel

by telephone afterwards. Defense counsel testified that he had no recollection of discussing an appeal with Hunt, there would be documentation if he had, and there was no such documentation in Hunt's case file. The district court determined that Hunt failed to demonstrate by a preponderance of the evidence that defense counsel was ineffective and he was deprived of an appeal. See Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004) (petitioner bears the burden of proving ineffective-assistance). The district court's factual findings are supported by substantial evidence and are not clearly wrong, Hunt has not demonstrated that the district court erred as a matter of law, and we conclude that the district court did not abuse its discretion by denying Hunt's petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

cc: Fourth Judicial District Court, Department 2  
Brian D. Green  
Attorney General/Carson City  
Elko County District Attorney  
Elko County Clerk