

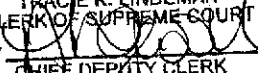
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMES LEMUEL WASHINGTON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 69394

FILED

JUL 26 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

Appellant James Washington claims the district court erred in denying his habeas petition because defense counsel was either ineffective for failing to convey the State's renewed first plea offer or for failing to advise him to accept the State's second plea offer.

"A defendant is entitled to effective assistance of counsel, as guaranteed by the Sixth Amendment of the United States Constitution, when deciding whether to accept or reject a plea bargain." *Rubio v. State*, 124 Nev. 1032, 1039, 194 P.3d 1224, 1229 (2008). To prevail on a claim of ineffective assistance of counsel, a petitioner must show (1) counsel's performance was deficient because it fell below an objective standard of reasonableness and (2) the deficiency prejudiced the defense. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). We review the district court's resolution of ineffective-assistance claims de novo, giving deference to the court's factual findings if they are supported by substantial evidence and not clearly wrong. *Lader v. Warden*, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005).

Here, the district court conducted an evidentiary hearing and made the following factual findings: Counsel reasonably informed Washington about the pros and cons of pleading guilty. The State informed counsel of its original plea offer on or before June 6, 2012, and counsel promptly conveyed the State's offer to Washington on June 6, 2012. Washington was unwilling to negotiate with the State despite counsel's warning that future offers were less likely to be favorable. The State extended the same offer in a follow-up email sent on June 12, 2012. Counsel did not have a chance to re-convey the offer before it was revoked on June 13, 2012, but by then Washington had had at least a week to consider it. Washington refused the State's first three offers despite counsel's frank and correct advice that the plea offers were not likely to improve. The district court also found Washington's claim that counsel failed to provide adequate advice during the plea negotiations was self-serving, conclusory, and devoid of specific factual allegations.

The district court's factual findings are supported by the record and are not clearly wrong. We conclude the district court did not err in rejecting Washington's ineffective-assistance-of-counsel claims and denying his habeas petition. *See Means v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004) (petitioner bears the burden of proving ineffective assistance of counsel). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Jessie Elizabeth Walsh, District Judge
Matthew D. Carling
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk