

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

EDWARD MICHAEL ADAMS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 83917-COA

FILED

SEP 14 2022

ELIZABETH A. SPENCER  
CLERK OF SUPREME COURT  
BY *Elizabeth A. Spencer*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Edward Michael Adams appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on September 11, 2012, and a supplemental petition filed on June 28, 2019. Eighth Judicial District Court, Clark County; Nancy A. Becker, Senior Judge.

Adams argues the district court erred by denying his claims that trial counsel was ineffective without first conducting an evidentiary hearing. To demonstrate ineffective assistance of trial counsel, a petitioner must show counsel's performance was deficient in that it fell below an objective standard of reasonableness and prejudice resulted in that there was a reasonable probability of a different outcome absent counsel's errors. *Strickland v. Washington*, 466 U.S. 668, 687-88 (1984); *Warden v. Lyons*, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984) (adopting the test in *Strickland*). Both components of the inquiry must be shown. *Strickland*, 466 U.S. at 687. We give deference to the district 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). To warrant an evidentiary

hearing, a petitioner must raise claims supported by specific factual allegations that are not belied by the record and, if true, would entitle him to relief. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

First, Adams claimed that counsel was ineffective for failing to investigate and interview a witness. He also claimed that counsel was ineffective for failing to request a continuance when the witness was located on the second day of trial. The witness at issue testified favorably for the defendant at trial that the victim did not appear to be in distress as she followed Adams into the apartment. Adams argued that had the witness been located earlier, counsel could have corroborated his testimony and could have used his testimony to undermine the testimony of other witnesses who had seen Adams and the victim earlier. However, Adams failed to demonstrate how the witness's testimony could have been corroborated or used to undermine witnesses who saw Adams and the victim earlier. *See Molina v. State*, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004) (holding that a petitioner claiming that counsel should have conducted an investigation must identify what the investigation would have revealed).

Given that the witness testified favorably for the defense, and in light of the other evidence presented at trial, we conclude that Adams failed to demonstrate a reasonable probability of a different outcome at trial had counsel investigated and interviewed the witness earlier or had counsel requested a continuance of trial. Therefore, we conclude the district court did not err by denying this claim without first conducting an evidentiary hearing.

Second, Adams claimed that counsel was ineffective for failing to adequately question a juror when she informed the parties that she knew

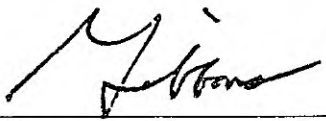
the presiding judge socially and had met a witness once. Further, Adams claimed that counsel was ineffective for failing to request that the juror be removed from the panel. The juror was questioned by the court, counsel, and the State and responded that she could be impartial during trial. Therefore, Adams failed to demonstrate counsel was deficient as he failed to demonstrate that further questioning of the juror would have shown she could not be impartial. He also failed to demonstrate that a challenge for cause had a reasonable probability of success given the juror's statements that she could be impartial. Accordingly, we conclude the district court did not err by denying this claim without first conducting an evidentiary hearing.

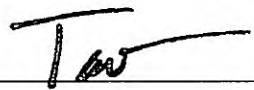
Next, Adams claims the district court erred by denying the following claims: the State failed to preserve a recording of an interview with a witness, the State violated his right to an impartial jury by showing pictures of him in jail clothes, the district court erred by not removing a juror from the panel, and he received cruel and unusual punishment. These claims were waived because they could have been raised on appeal and Adams failed to allege good cause and prejudice to overcome the waiver. *See* NRS 34.810(1)(b)(2). Therefore, we conclude the district court did not err by denying this claim without first conducting an evidentiary hearing.

Finally, Adams argues the district court erred by denying his claims that his rights were violated because he was convicted on multiple counts for the same conduct and the prosecutor committed misconduct by shifting the burden of proof and injecting his own personal feelings into his arguments. These claims were raised on direct appeal, *see Adams v. State*, No. 55494, 2012 WL 3064259, at \*1 (Nev. July 26, 2012) (Order of Affirmance), and are therefore barred by the doctrine of law of the case. *See*

*Hall v. State*, 91 Nev. 314, 315-16, 535 P.2d 797, 798-99 (1975); see also *Tien Fu Hsu v. County of Clark*, 123 Nev. 625, 629-30, 173 P.3d 724, 728 (2007) (“Under the law of the case doctrine, when an appellate court states a principle or rule of law necessary to a decision, the principle or rule becomes the law of the case and *must be followed* throughout its subsequent progress, both in the lower court and upon subsequent appeal.” (internal quotation marks omitted) (emphasis added)). Accordingly, we conclude the district court did not err by denying these claims without first conducting an evidentiary hearing.

Having concluded Adams is not entitled to relief, we  
ORDER the judgment of the district court AFFIRMED.

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

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Chief Judge, Eighth Judicial District Court  
Hon. Nancy A. Becker, Senior Judge  
Ornoz & Ericsson, LLC  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk