

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROYAL LOVE-CAMP,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 85432-COA

FILED

DEC 14 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY:   
DEPUTY CLERK

ORDER OF AFFIRMANCE

Royal Love-Camp appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on July 15, 2019, and supplemental pleadings. Eighth Judicial District Court, Clark County; Carli Lynn Kierny, Judge.

Love-Camp argues the district court erred by denying his claims of ineffective assistance of counsel. 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, and the petitioner must demonstrate the underlying facts by a preponderance of the evidence, *Means v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). 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).

First, Love-Camp argues the district court erred by denying his claim that counsel was ineffective for failing to request a defense-of-others jury instruction at trial. Love-Camp was with his brother and a friend when Love-Camp fatally shot the victim. He claims the victim was coming after them and he was merely protecting himself and/or his companions.<sup>1</sup> Homicide in defense of others is justified “when there is reasonable ground to apprehend a design on the part of the person slain to commit a felony or to do some great personal injury to the slayer or to any such person, and there is imminent danger of such design being accomplished.” NRS 200.160. “[I]n order for homicide in response to the commission of a felony to be justifiable under that statute, the amount of force used must be reasonable and necessary under the circumstances.” *Newell v. State*, 131 Nev. 974, 980, 364 P.3d 602, 605 (2015). “[D]eadly force cannot be used unless the person killed poses a threat of serious bodily injury to the slayer or others.” *Id.*

The evidence presented at trial established that Love-Camp and two other young men were sitting near the front of a city bus and were talking to another passenger, who it turned out was the victim’s girlfriend. The victim, who was considerably larger than the young men, walked from the back of the bus and punched Love-Camp’s friend a single time without apparent provocation or warning, dazing the friend. The attack and subsequent shooting were largely captured by the bus’s surveillance

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<sup>1</sup>Love-Camp put forth a self-defense theory at trial, but the jury nevertheless convicted him of second-degree murder with the use of a deadly weapon.

cameras. The footage was presented to the jury and showed several things happening during a short amount of time. After the punch, the victim's girlfriend immediately asked the victim why he hit Love-Camp's friend, and at the same time, Love-Camp pulled out a handgun and exited the bus. While Love-Camp was exiting the bus, the victim yelled aggressively for the companions to get off of the bus. They complied, and the victim's feet can be seen turning toward them as they exit the bus. Meanwhile, Love-Camp had set down his drink, racked the slide of his handgun, and taken a step back from the bus. As his companions exited, he shot the victim a single time at an angle through the open exit door of the bus. This happened in such a short period of time that it appears Love-Camp nearly shot one of his companions as they were running off the bus. Approximately 10 seconds passed between the punch and Love-Camp's exit and an additional 3 seconds passed between his exit from the bus and when he shot the victim.

The State presented evidence from two eyewitnesses who testified that the victim was just standing on the bus watching the group as they left, although the testimony of a third eyewitness was less clear as to whether the victim was walking toward the group. Love-Camp's brother testified in Love-Camp's defense that the victim started to follow them off the bus before he was shot. Although no weapon was found on the victim, Love-Camp's brother testified that he thought the victim had a gun because he was reaching toward his waist and recalled telling police during an interview that Love-Camp must have seen a gun if he shot the victim. The State's eyewitnesses all agreed that the victim did not act in a manner that indicated he had a weapon.

Based on these circumstances, Love-Camp failed to demonstrate that the amount of force he used was reasonable and necessary

or that, at the time of the shooting, the victim posed a threat of serious bodily injury to Love-Camp's companions. Moreover, the jury did not believe that Love-Camp had acted in self-defense, so it is unlikely that the jury would have believed that he acted in defense of others had such an instruction been given. Thus, Love-Camp failed to demonstrate a reasonable probability of a different outcome at trial had counsel sought a defense-of-others instruction. Therefore, we conclude the district court did not err by denying this claim.

Second, Love-Camp argues the district court erred by denying his claim that counsel was ineffective for failing to investigate and present evidence of Love-Camp's post-traumatic stress disorder (PTSD) to the jury. Love-Camp contends that counsel should have hired an expert to testify about how PTSD affects a person's perceptions and actions. Love-Camp further alleges that his PTSD diagnosis would have supported his theory of self-defense because his PTSD makes him see the world differently than others. Although Love-Camp testified at the evidentiary hearing that he believed evidence of his mental health was relevant to his state of mind, he did not explain how his mental health affected his state of mind at the time of the offense. On appeal, Love-Camp makes only a bare allegation that the outcome would have been different had the jury learned of his PTSD. Accordingly, Love-Camp fails to demonstrate that absent counsel's alleged errors regarding the investigation and presentation of PTSD evidence in support of Love-Camp's claim of self-defense there was a reasonable probability of a different outcome at trial. Therefore, we conclude the district court did not err by denying this claim.

Third, Love-Camp argues the district court erred by denying his claim that counsel was ineffective for failing to properly argue for a

justifiable-homicide jury instruction pursuant to NRS 200.120. Counsel sought a justifiable-homicide instruction at trial, but the request was denied by the district court.

The Nevada Supreme Court determined on direct appeal that Love-Camp was not entitled to a justifiable-homicide instruction because “Love-Camp was a minor illegally in possession of a firearm without the supervision of a parent or guardian.” *Love-Camp v. State*, No. 75261, 2019 WL 1450211 (Nev. Mar. 29, 2019) (Order of Affirmance). That determination is the law of the case, which “cannot be avoided by a more detailed and precisely focused argument.” *Hall v. State*, 91 Nev. 314, 315-16, 535 P.2d 797, 798-99 (1975). Accordingly, Love-Camp fails to demonstrate counsel’s performance fell below an objective standard of reasonableness or a reasonable probability of a different outcome at trial had counsel argued differently for the justifiable-homicide instruction. Therefore, we conclude the district court did not err by denying this claim.

Fourth, Love-Camp argues the district court erred by denying his claim that counsel was ineffective for failing to establish any relationship with him. Love-Camp contends that counsel failed to adequately visit him and that if counsel had, counsel would have learned information (1) about Love-Camp’s PTSD diagnosis and hospitalization to support Love-Camp’s self-defense claim and (2) in support of a defense-of-others jury instruction. For the reasons discussed above, Love-Camp fails to demonstrate a reasonable probability of a different outcome at trial had counsel visited him more to learn information related to these two defenses. Therefore, we conclude the district court did not err by denying this claim.

Fifth, Love-Camp argues the district court erred by denying his claim that counsel was ineffective for failing to make timely objections. The

district court found that Love-Camp failed to identify the objections counsel should have raised or what objectionable material was admitted during trial, and it concluded that the claim was bare. Because Love-Camp fails to provide his pleadings below for our review on appeal, we presume they support the district court's decision. *See Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007); *see also Greene v. State*, 96 Nev. 555, 558, 612 P.2d 686, 688 (1980) ("The burden to make a proper appellate record rests on appellant."); *accord* NRAP 30(b)(3). Therefore, we conclude the district court did not err by denying this claim.

Sixth, Love-Camp argues the district court erred by denying his claim that counsel was ineffective for failing to request a limiting instruction or mistrial after a female eyewitness described the offense as "cold-blooded murder." Counsel timely objected and the district court contemporaneously instructed the jury to disregard it. Love-Camp fails to cogently argue what additional jury instructions counsel should have requested or what argument for mistrial counsel should have made. In light of these circumstances, Love-Camp fails to demonstrate a reasonable probability of a different outcome at trial had counsel requested a limiting instruction or mistrial.<sup>2</sup> Therefore, we conclude the district court did not err by denying this claim.

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<sup>2</sup>To the extent Love-Camp argues on appeal that counsel was ineffective for using the phrase "cold-blooded murder" during cross-examination, the record does not demonstrate that this argument was raised below. Discussion of this argument does not appear in the district court's order, and Love-Camp has not provided this court with his pleadings below. Therefore, we decline to consider this claim on appeal. *See McNelton v. State*, 115 Nev. 396, 415-16, 990 P.2d 1263, 1275-76 (1999); *Greene*, 96 Nev. at 558, 612 P.2d at 688; *accord* NRAP 30(b)(3).

Finally, Love-Camp argues the district court erred by denying his claim that counsel was ineffective for failing to object to two instances of prosecutorial misconduct. Statements alleged to be prosecutorial misconduct should be considered in context. *Byars v. State*, 130 Nev. 848, 865, 336 P.3d 939, 950-51 (2014).


Love-Camp first alleges the State improperly attempted to solicit a legal conclusion by asking a male eyewitness if he had thought during the altercation that led to the shooting that a weapon would be produced. Because the eyewitness was present during the altercation and the question was rationally related to the witness's perception of the events, Love-Camp fails to demonstrate that any objection on the grounds of prosecutorial misconduct would have been successful. See NRS 50.265 (providing that a lay witness may provide opinion or inference testimony that is "[r]ationally based on the perception of the witness"); NRS 50.295 (providing that otherwise admissible opinion or inference testimony "is not objectionable because it embraces an ultimate issue to be decided by the trier of fact").

Love-Camp also alleges the State improperly asked the female eyewitness again about her use of the phrase "cold-blooded-murder" on redirect examination. However, because Love-Camp asked the witness about her use of the phrase on cross-examination, the State was not prohibited from eliciting questions on redirect examination that explained or clarified her cross-examination testimony. See *Barrett v. State*, 105 Nev. 356, 359, 776 P.2d 538, 540 (1989). Based on this, Love-Camp fails to demonstrate that any objection to the State's conduct on the grounds of prosecutorial misconduct would have been successful. Accordingly, Love-Camp fails to demonstrate counsel's performance fell below an objective

standard of reasonableness or a reasonable probability of a different outcome at trial had counsel objected to this line of questioning on redirect examination. Therefore, we conclude the district court did not err by denying this claim.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Carli Lynn Kierny, District Judge  
Law Office of Betsy Allen  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk