

IN THE SUPREME COURT OF THE STATE OF NEVADA

DIANA MARIE CORY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39758

FILED

DEC 19 2002

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

This is an appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus. Appellant was originally convicted, pursuant to a jury verdict, of 18 counts of drawing and passing a check without sufficient funds with intent to defraud, in violation of NRS 205.130. The district court sentenced appellant to 18 concurrent prison terms of 12 to 48 months. The district court suspended the sentences and placed appellant on probation for a period not to exceed 5 years. The district court further ordered appellant to pay restitution in the amount of \$131,070.00.

On direct appeal, this court affirmed the conviction.¹ Appellant filed a timely post-conviction habeas petition with the assistance of counsel. The State filed a return to the petition, and appellant filed a reply in support of the petition. The district court denied the petition without conducting an evidentiary hearing.

In the petition, appellant first alleged that trial counsel had a conflict of interest because trial counsel was also representing appellant in

¹Cory v. State, Docket No. 36765 (Order of Affirmance, February 21, 2001).

a related civil suit. Appellant cites no authority for the proposition that counsel is precluded from representing a client in both a criminal action and a civil action. We therefore conclude that the district court did not err by denying the petition on this ground.

Appellant also contends that counsel was ineffective because: (1) trial counsel is a bankruptcy attorney; (2) trial counsel failed to call witnesses; (3) trial counsel failed to challenge the "unconstitutional commingling of the legislative and judicial branches" that occurred because the grand jury foreman is also a State Assemblyman; (4) trial counsel failed to inform the district court that appellant was under the influence of pain medication at the time of trial; and (5) trial counsel failed to request a continuance to review the documents produced by the State as part of the discovery process.

To state a claim of ineffective assistance of counsel, a petitioner must demonstrate that (1) counsel's performance fell below an objective standard of reasonableness, and (2) there is a reasonable probability that, but for counsel's performance, the outcome of the proceedings would have been different.² The court need not consider both prongs of the test if the petitioner makes an insufficient showing on either prong.³

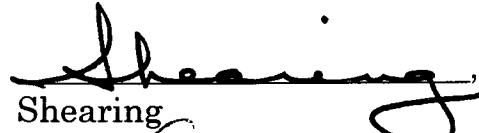
As to appellant's first and third arguments, we conclude that she has not demonstrated that counsel's performance did not meet an objective standard of reasonableness. As to the second, fourth and fifth arguments, we conclude that appellant has not demonstrated that the


²Strickland v. Washington, 466 U.S. 668, 694 (1984).


³Id. at 697.

outcome of the trial would have been different absent counsel's performance. We therefore conclude that the district court did not err by denying the petition on these grounds. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 J.
Shearing

 J.
Leavitt

 J.
Becker

cc: Hon. Jack Lehman, District Judge
Potter Law Offices
Attorney General/Carson City
Clark County District Attorney
Clark County Clerk