

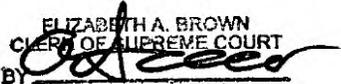
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

D'VAUGHN KEITHAN KING,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85838-COA

FILED

APR 10 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

D'Vaughn Keithan King appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on July 16, 2015, and a supplemental petition filed on March 30, 2017. Second Judicial District Court, Washoe County; Egan K. Walker, Judge.

King argues the district court violated his Sixth Amendment rights when it denied his request to represent himself at the evidentiary hearing on his petition. King does not cite, and we have not found, any authority that holds a defendant has a constitutional right to self-representation in state habeas proceedings. Rather, courts have declined to extend a defendant's right to self-representation beyond the context of a criminal trial. *See Martinez v. Court of Appeal of Cal.*, 528 U.S. 152, 160 (2000) (holding there is no constitutional right to self-representation on direct appeal from a criminal conviction); *Blandino v. State*, 112 Nev. 352, 354, 914 P.2d 624, 626 (1996) (same); *see also In re Barnett*, 73 P.3d 1106, 1112-13 (Cal. 2003) (stating "if there is no federal constitutional right to self-representation in a state appeal as of right, then there is no such

constitutional right in state collateral proceedings”). Thus, King fails to demonstrate that the district court violated his constitutional rights when it denied his request. Therefore, we conclude King is not entitled to relief on this claim.

King also argues postconviction counsel was ineffective.¹ King concedes that he has no right to counsel in noncapital postconviction proceedings, *see Pennsylvania v. Finley*, 481 U.S. 551, 557 (1987); *see also Brown v. McDaniel*, 130 Nev. 565, 569, 331 P.3d 867, 870 (2014), and that “[w]here there is no right to counsel there can be no deprivation of effective assistance of counsel,” *McKague v. Warden*, 112 Nev. 159, 164-65, 912 P.2d 255, 258 (1996). However, King argues this court should review postconviction counsel’s performance under *Strickland v. Washington*, 466 U.S. 668 (1984), because counsel was “forced” upon him. We decline to do so.

The record indicates that King filed a motion to proceed in forma pauperis and an application for the appointment of counsel, and the district court properly exercised its discretion to appoint counsel pursuant to NRS 34.750(1). Although King may have been dissatisfied with counsel’s performance, King was not entitled to the effective assistance of postconviction counsel. *See Crump v. Warden*, 113 Nev. 293, 303, 934 P.2d 247, 253 (1997); *McKague*, 112 Nev. at 164-65 & n.5, 912 P.2d at 258 & n.5.

¹We note new counsel was appointed to litigate the instant appeal.

Therefore, we conclude King is not entitled to relief on this claim.²

Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Egan K. Walker, District Judge
Ristenpart Law
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

²Because we conclude King's constitutional rights were not violated, we further conclude that King is not entitled to relief on his claim that the cumulative effect of constitutional errors deprived him of due process.