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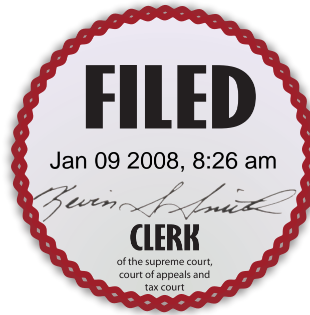


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# IN THE
# COURT OF APPEALS OF INDIANA

JOHN T. VANCE,

Appellant-Petitioner,

vs.

STATE OF INDIANA,

Appellee-Respondent.

No. 41A05-0702-PC-85

APPEAL FROM THE JOHNSON CIRCUIT COURT
The Honorable K. Mark Loyd, Judge
Cause No. 41C01-0506-PC-3

**January 9, 2008**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**BRADFORD, Judge**

Appellant-Petitioner John T. Vance challenges the post-conviction court's denial of his petition for post-conviction relief ("PCR"). Upon appeal, Vance claims he received ineffective assistance of both trial and appellate counsel. We affirm.

## FACTS AND PROCEDURAL HISTORY

The Indiana Supreme Court's opinion in Vance's direct appeal instructs us as to the underlying facts and procedural history leading to this post-conviction appeal:

> Vance and his mother had a tumultuous relationship. On several occasions prior to her death, he had threatened to kill her. On August 9, 1991, when his mother was murdered, Vance was fifteen years old. Vance's mother died of a blunt force injury to her head and stab wounds to the neck. Evidence at the crime scene suggested a violent struggle. Blood was spattered throughout several rooms of the home; blood and hair traces were found on several household instruments including a toaster, hammer, glass mug, and casserole dish.
>
> The day before the killing, a neighbor heard Vance ask Danny Simpson if they were "gonna do it." Simpson responded that a plan was necessary. On the afternoon of the murder, Simpson and Vance arrived at Simpson's girlfriend's home in a car belonging to Vance's mother. Both had blood on their clothing and bodies. After being dropped off in Indianapolis, Vance was seen walking down the street with blood on his left arm and side. The police were telephoned. Vance told them that Simpson had killed his mother. Vance was taken into custody. Two days later, he told his grandfather that he had murdered his mother. While in jail awaiting trial, Vance told several inmates how Simpson and he together had killed his mother.
>
> Simpson and his girlfriend drove the victim's car to Tennessee. During that trip, Simpson told his girlfriend that Vance had killed his mother. In a separate trial, Simpson was convicted of murder and robbery.

*Vance v. State*, 640 N.E.2d 51, 54 (Ind. 1994).

At the time of his mother's murder, Vance was fifteen years old. He was initially charged in juvenile court but, after two separate waiver hearings, was waived to adult court where he was convicted of murder, conspiracy to commit murder, robbery, and

conspiracy to commit robbery. On August 13, 1992, Vance was sentenced to sixty years in the Department of Correction for murder, thirty years for conspiracy to commit murder, twenty years for robbery, and ten years for conspiracy to commit robbery, with the sentences to run consecutively. The Indiana Supreme Court affirmed Vance's Conviction on September 9, 1994. On April 13, 2005, Vance filed a *pro se* motion to correct erroneous sentence, which the court determined should be treated as a PCR petition on June 10, 2005. On March 6, 2006, Vance filed a final *pro se* amended PCR petition alleging ineffective assistance of trial and appellate counsel. Following three evidentiary hearings, on March 6, May 22, and August 14, 2006, the post-conviction court issued findings of fact and conclusions thereon and denied relief.[1] Vance now appeals.

## DISCUSSION AND DECISION

Post-conviction proceedings are civil in nature. *Stevens v. State*, 770 N.E.2d 739, 745 (Ind. 2002). Therefore, in order to prevail, petitioners must establish their claims by a preponderance of the evidence. Ind. Post-Conviction Rule 1(5); *Stevens*, 770 N.E.2d at 745. When appealing from a denial of a petition for post-conviction relief, petitioners must convince this court that the evidence, taken as a whole, "leads unmistakably to a conclusion opposite that reached by the post-conviction court." *Stevens*, 770 N.E.2d at 745. "It is only where the evidence is without conflict and leads to but one conclusion, and the post-conviction court has reached the opposite conclusion, that its decision will

[1] Vance timely filed proposed findings of fact on August 14, 2006. The State, however, failed to timely file proposed findings, and its findings were therefore stricken from the record.

be disturbed as contrary to law." *Godby v. State*, 809 N.E.2d 480, 482 (Ind. Ct. App. 2004), *trans. denied*. The post conviction court is the sole judge of the weight of the evidence and the credibility of the witnesses. *Fisher v. State*, 810 N.E.2d 674, 679 (Ind. 2004). We therefore accept the post-conviction court's findings of fact unless they are clearly erroneous but give no deference to its conclusions of law. *Id.*

Post-conviction proceedings do not afford a petitioner with a super-appeal, and not all issues are available. *Timberlake v. State*, 753 N.E.2d 591, 597 (Ind. 2001). A claim of ineffective assistance of trial counsel is properly presented in a post-conviction proceeding if such claim is not raised on direct appeal.[2] *Id.* A claim of ineffective assistance of appellate counsel is an appropriate issue for post-conviction review. *Id.*

## I. Ineffective Assistance of Counsel

### A. Standard of Review

The right to effective counsel is rooted in the Sixth Amendment to the United States Constitution. *Taylor v. State*, 840 N.E.2d 324, 331 (Ind. 2006). "'The Sixth Amendment recognizes the right to the assistance of counsel because it envisions counsel's playing a role that is critical to the ability of the adversarial system to produce just results.'" *Id.* (quoting *Strickland v. Washington*, 466 U.S. 668, 685 (1984)). "The benchmark for judging any claim of ineffectiveness must be whether counsel's conduct

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[2] We note that while Vance included the words "ineffective assistance of trial counsel" in his brief on direct appeal, his claim was one of a denial of due process and the Supreme Court addressed it as such. Because the merits of ineffective assistance of trial counsel were never argued or considered, Vance is not precluded from raising that claim here. *See Woods v. State*, 701 N.E.2d 1208, 1220 (Ind. 1998).

so undermined the proper function of the adversarial process that the trial court cannot be relied on as having produced a just result." *Strickland*, 466 U.S. at 686.

A successful claim for ineffective assistance of counsel must satisfy two components. *Reed v. State*, 866 N.E.2d 767, 769 (Ind. 2007). Under the first prong, the petitioner must establish that counsel's performance was deficient by demonstrating that counsel's representation "fell below an objective standard of reasonableness, committing errors so serious that the defendant did not have the 'counsel' guaranteed by the Sixth Amendment." *Id*. We recognize that even the finest, most experienced criminal defense attorneys may not agree on the ideal strategy or most effective way to represent a client and therefore under this prong, we will assume that counsel performed adequately, and will defer to counsel's strategic and tactical decisions. *Smith v. State*, 765 N.E.2d 578, 585 (Ind. 2002). Isolated mistakes, poor strategy, inexperience, and instances of bad judgment do not necessarily render representation ineffective. *Id*. Under the second prong, the petitioner must show that the deficient performance resulted in prejudice. *Reed*, 866 N.E.2d at 769. A petitioner may show prejudice by demonstrating that there is "a reasonable probability (*i.e*. a probability sufficient to undermine confidence in the outcome) that, but for counsel's errors, the result of the proceeding would have been different." *Id*.

A petitioner's failure to satisfy either prong will cause the ineffective assistance of counsel claim to fail. *See Williams v. State*, 706 N.E.2d 149, 154 (Ind. 1999). Therefore, if we can resolve a claim of ineffective assistance of counsel based on lack of prejudice, we need not address the adequacy of counsel's performance. *See Wentz v. State*, 766

N.E.2d 351, 360 (Ind. 2002). Further, the same standard applies to claims of ineffective assistance of trial counsel and claims of ineffective assistance of appellate counsel. *Burnside v. State*, 858 N.E.2d 232, 238 (Ind. Ct. App. 2006).

### B. Ineffective Assistance of Trial Counsel

Vance argues that his trial counsel was ineffective for several reasons. We will address each in turn.

#### 1. Waiver Hearing

Vance first contends that his trial counsel was ineffective because he failed to subject the State's case to adversarial testing at the waiver hearing. *See United States v. Cronic*, 466 N.E.2d 648 (1984). In *Cronic*, the United States Supreme Court created an exception to the *Strickland* analysis for ineffective assistance of counsel, observing that "limited circumstances of extreme magnitude may justify a presumption of ineffectiveness and such circumstances are, in and of themselves, sufficient without inquiry into counsel's actual performance at trial." *Minnick v. State*, 698 N.E.2d 745, 751 (Ind. 1998) (citations omitted). Such a presumption is justified

> (1) when counsel is completely denied; (2) when counsel entirely fails to subject the prosecution's case to meaningful adversarial testing; and (3) when surrounding circumstances are such that, 'although counsel is available to assist the accused during trial, the likelihood that any lawyer, even a fully competent one, could provide effective assistance is so small that a presumption of prejudice is appropriate without inquiry into the actual conduct of the trial.'

*Conner v. State*, 711 N.E.2d 1238, 1254 (Ind. 1999) (quoting *Cronic*, 466 U.S. at 659-60)). However, if the circumstances do not give rise to a *Cronic* exception, the defendant must fulfill the individualized requirements of *Strickland*. *Id.*; *see also*, *Cronic*, 466 U.S.

at 659 n.26. Therefore, to establish his *Cronic* claim, Vance must have proven to the post-conviction court that his trial counsel entirely failed to subject the State's evidence to adversarial testing. *Minnick*, 698 N.E.2d at 752 (citing *Kimmelman v. Morrison*, 477 U.S. 365, 395 n.2 (1986) (Powell, J., concurring)). Vance failed to do so.

Vance argues that his trial counsel was ineffective, under *Cronic*, at the waiver hearing only, and makes no such argument for his counsel's performance in relation to the rest of the case. Vance's argument presumes that the *Cronic* analysis is applicable not only to a case in its entirety, but also to individual elements of a particular action. Vance, however, provides no authority suggesting that *Cronic* is applicable to one element of an entire case, and our review of the relevant authority suggests that *Cronic* applies only to a case in its entirety. *See Bell v. Cone*, 535 U.S. 685, 697-98 (2002) (stating that under *Cronic*, the attorney's failure to test the prosecutor's case must be complete and that challenges to specific portions of the trial counsel's representation during a proceeding are "of the same ilk as other specific attorney errors which we have held subject to *Strickland's* performance and prejudice components"); *Kimmelman*, 477 U.S. at 395 n.2 (noting that *Cronic* stands for the proposition that in such circumstances, the defendant is in effect deprived of counsel altogether, and thereby deprived of any meaningful opportunity to subject the State's evidence to adversarial testing); *Cronic*, 466 U.S. at 659-60 (stating that the presumption would be justified when counsel entirely fails to subject the prosecution's case to meaningful adversarial testing). Therefore, the post-conviction court properly denied Vance's *Cronic* claim as a matter of law.

Because the circumstances did not give rise to a *Cronic* exception, Vance must fulfill the individualized requirements of *Strickland* to obtain relief. *See Minnick*, 698 N.E.2d at 751-52. It is worth noting that upon direct review, the Indiana Supreme Court concluded that Vance was in no way prejudiced by the circumstances surrounding the waiver hearing. *See Vance*, 640 N.E.2d at 56. Furthermore, Vance failed to show how counsel's performance with regard to the waiver hearing prejudiced him, and therefore, the post-conviction court correctly determined that Vance's trial counsel was not ineffective in this regard.

**2. Motion to Suppress Statements**

Vance next contends that his trial counsel was ineffective because he failed to make a pre-trial motion to suppress statements Vance made to police before being notified of his rights pursuant to *Miranda v. Arizona*, 384 U.S. 436 (1966). "Where ineffective assistance of counsel is alleged for the failure to move to suppress or to object to the defendant's statement, we will find no deficient performance where no showing is made that any such motion or objection would have resulted in the suppression of the statement." *Smith v. State*, 822 N.E.2d 193, 204 (Ind. Ct. App. 2005) (citing *Shields v. State*, 699 N.E.2d 636, 640 (Ind. 1998)), *trans. denied*. Here, Vance made no showing that any motion would have resulted in the suppression of the statement. Therefore, the post-conviction court correctly denied Vance's relief on this claim.

We also note that Vance's trial counsel made a strategic decision not to file a pre-trial motion to suppress with regard to the statements. Rather, Vance's trial counsel strategically chose to make objections to the statements when offered by the State at trial.

We defer to trial counsel's strategic and tactical decisions and are unable to say that counsel was ineffective for deciding to not file a pre-trial motion to suppress, but rather to object to the statements when offered at trial because Vance did not show that the trial court would have granted a pre-trial motion to suppress if made by counsel. *See Smith*, 765 N.E.2d at 585.

### 3. Motion to Suppress Evidence

Vance next contends that his trial counsel was ineffective for failing to make pre-trial motions to suppress evidence that was collected from his and his mother's residence, which was the murder scene, as well as to suppress any evidence which was derived from his clothing that was seized by the police prior to his arrest. "The decision of whether to file a particular motion is a matter of trial strategy, and absent an express showing to the contrary, the failure to file a motion does not indicate ineffective assistance of counsel." *Moore v. State*, 872 N.E.2d 617, 620-21 (Ind. Ct. App. 2007) (citing *Glotzbach v. State*, 783 N.E.2d 1221, 1224 (Ind. Ct. App. 2003) (quotation marks and some citations omitted)), *reh'g denied*. "'To prevail on an ineffective assistance of counsel claim based upon counsel's failure to file motions on a defendant's behalf, the defendant must demonstrate that such motions would have been successful.'" *Moore*, 872 N.E.2d at 621 (quoting *Wales v. State*, 768 N.E.2d 513, 523 (Ind. Ct. App. 2002)).

#### a. Residence

Vance claims that any evidence collected at his and his mother's home should have been suppressed because the police wrongly entered the home before obtaining a warrant. Shortly after the crime occurred, Vance notified police that his mother had just

been murdered. Police then went to the home, which Vance described as the likely crime scene, to check on Vance's mother. Upon entering the home, Bargersville Deputy Marshall Bill Simmons found Vance's mother's body, notified the coroner, and secured the scene. A warrant was later obtained and deputies then re-entered the home to begin collecting evidence. It is clear that in Indiana there are exceptions to the rule that police cannot enter one's home without first obtaining a warrant. One exception is that police may enter a residence without a warrant "when they reasonably believe that a person within is in need of immediate aid." *State v. Crabb*, 835 N.E.2d 1068, 1070 (Ind. Ct. App. 2005), *trans. denied*. While Vance alleges that the deputies improperly entered the home and began collecting evidence before the warrant was issued, he failed to present any evidence at the post-conviction hearing to support his allegations. As a result, Vance has failed to show that any motion to suppress this evidence would have been successful.

**b. Clothing**

Vance further claims that any evidence derived from his clothing should have been similarly suppressed because the police seized the clothing without first obtaining a warrant. We fail to see how Vance was prejudiced by the seizure of the clothing. Numerous witnesses saw Vance wearing the clothing. The value of the clothing at trial seems, at most, merely corroborative to show that Vance was at the murder scene, as numerous other pieces of evidence and statements made by Vance similarly demonstrate. Vance has failed to show how he was prejudiced by the seizure of the clothing.

### 4. Blood Spatter Expert

Vance next contends that his trial counsel was ineffective because he failed to adequately investigate the qualifications of the State's blood spatter expert, Wolf Dietmar Hans Sadowski. At the post-conviction hearing, Vance's trial counsel testified that he and his private investigator investigated Mr. Sadowski's qualifications and, as a result, counsel was satisfied that Mr. Sadowski was qualified to testify as an expert. Further, at trial, counsel cross-examined Mr. Sadowski on his findings and attacked Mr. Sadowski's credibility during his closing argument.

Whether further investigation into Mr. Sadowski's credentials was necessary was a tactical decision made by Vance's trial counsel. As we recognized above, even the finest criminal defense attorneys may not agree on the ideal strategy, and as such we will assume that counsel performed adequately and defer to counsel's tactical decisions. *See Smith*, 765 N.E.2d at 585. Furthermore, Vance failed to demonstrate how he was prejudiced by Mr. Sadowski's testimony, which did not place him at the scene, and suggested, at most, that more than one person committed the murder due to the quantity and the pattern of the blood spatter evidence. Because Vance failed to demonstrate that he was prejudiced by Mr. Sasowski's testimony, his claim of ineffective assistance of counsel therefore fails in this regard. *Reed*, 866 N.E.2d at 769; *Williams*, 706 N.E.2d at 154.

## 5. Failure to Object

Next, Vance contends that his trial counsel was ineffective because of his failure to object to various statements referencing Vance's interest in Charles Manson and to various statements which amounted to hearsay.

a. References to Charles Manson

Vance argues that his trial counsel was ineffective because counsel failed to object to multiple statements referencing Charles Manson as well as multiple statements highlighting Vance's interest in Manson. However, in light of the overwhelming evidence pointing to Vance's guilt, we are unable to see how Vance was prejudiced by the admission of the statements referencing Manson. Furthermore, Vance has failed to show that these statements prejudiced him such that there is a reasonable probability that the outcome of his trial would had been different had the statements been suppressed. *Reed*, 866 N.E.2d at 769.

b. Hearsay

Vance further argues that his trial counsel was ineffective because counsel failed to object to multiple statements amounting to hearsay pertaining to his relationship with his mother and his prior bad conduct. However, the record shows that counsel did object to some of these statements on hearsay grounds and simply declined to object further when the court ruled against him. Because we grant deference to trial counsel's strategic and tactical decisions, we are reluctant to conclude that an attorney's refusal to repeatedly object after being ruled against cannot somehow constitute a reasonable trial strategy. *See Smith*, 765 N.E.2d at 585. Furthermore, regardless of whether trial counsel's failure

to re-object was a tactical decision, Vance failed to show how he was prejudiced by these statements. Finally, Vance failed to establish that the trial court would have been required to sustain counsel's objection. *See id.*

### 6. Cumulative Effect

Vance last argues that even if his trial counsel's above-mentioned alleged errors are not sufficient to individually support a conclusion that Vance's trial counsel was ineffective, the cumulative effect of said alleged errors sufficiently prejudices Vance so as to warrant a new trial. Vance, however, makes no showing of prejudice and, as such, fails to convince us that there is "a reasonable probability that, but for counsel's errors, the result of the proceeding would have been different." *See Reed*, 866 N.E.2d at 769. Vance has failed to show such a probability sufficient to undermine our confidence in the outcome of his trial, and we therefore conclude that he was not sufficiently prejudiced by the "cumulative effect" of his trial counsel's alleged mistakes so as to warrant a finding of ineffective assistance of trial counsel. Vance has failed to raise any claim that has undermined our confidence in the outcome of his trial. The post-conviction court properly denied Vance's claim of ineffective assistance of trial counsel.

## C. Ineffective Assistance of Appellate Counsel

Vance argues that his appellate counsel was ineffective for the following reasons: (1) he failed to argue ineffective assistance of trial counsel under *Cronic*; (2) he failed to argue that the trial court erred by admitting Vance's statements to police before being *Mirandized* at trial; (3) he failed to argue that the trial court erred by admitting hearsay testimony relating to Vance's relationship with his mother at trial; (4) he failed to argue

that Vance's convictions for conspiracy to commit robbery by use of a deadly weapon and robbery by use of a deadly weapon violated the principles of double jeopardy; and (5) he failed to argue that Vance's sentence was improper.

With regard to the first three claims, for the same reasons we determined that Vance has failed to demonstrate that his trial counsel was ineffective for failing to raise these arguments, we conclude that Vance has failed to carry his burden of demonstrating that his appellate counsel was ineffective for failing to raise these arguments. That is, Vance has failed to show that proper objections at trial would have been sustained, or that had trial counsel argued in the manner suggested by Vance, the result of his trial would have been different. Therefore, Vance cannot show that the result of his appeal would have been different had his appellate counsel argued these issues. We will address his remaining claims in turn.

**1. Double Jeopardy**

Vance contends that his appellate counsel was ineffective because he failed to argue that Vance's convictions for conspiracy to commit robbery and robbery violated the prohibitions against double jeopardy. Appellate counsel's decision regarding what issues to raise and what arguments to make is one of the most important strategic decisions to be made by appellate counsel. *Ben-Yisrayl v. State*, 738 N.E.2d 253, 261 (Ind. 2000) (citations omitted); *see also*, *Bieghler v. State*, 690 N.E.2d 188, 193-194 (Ind. 1997) (noting that experienced advocates since "time beyond memory" have emphasized the importance of winnowing out weaker arguments on appeal and focusing on one central issue if possible, or at most a few key issues). Therefore, when claiming that

appellate counsel provided ineffective assistance regarding the selection and presentation of issues, the defendant must overcome the strongest presumption of adequate assistance, and judicial scrutiny is highly deferential. *Ben-Yisrayl*, 738 N.E.2d at 260-61 (citing *Conner*, 711 N.E.2d at 1252). Reviewing courts should be particularly deferential when accessing challenges to an appellate counsel's strategic decision to include or exclude issues "unless such a decision was unquestionably unreasonable." *Id*. (citing *Bieghler*, 690 N.E.2d at 194). Appellate counsel's performance, as to the selection and presentation of issues, will thus be presumed adequate unless found unquestionably unreasonable considering the information available in the trial record or otherwise known to appellate counsel. *Id*. To prevail on a claim of ineffective assistance of appellate counsel, a petitioner must therefore show from the information available in the trial record or otherwise known to appellate counsel that appellate counsel failed to present a significant *and* obvious issue and that this failure cannot be explained by any reasonable strategy. *Id*. (emphasis added).

Here, Vance cites to *Tawney v. State*, 439 N.E.2d 582 (Ind. 1982), to support his claim that counsel should have raised a double jeopardy challenge based on his convictions for robbery and conspiracy to commit robbery. The state responds that it was not until 1994 that the Indiana Supreme Court affirmatively held that "where the overt act element of a conspiracy charge is the underlying offense, convictions and sentences for both would constitute multiple punishments for the same offense, which both the federal and Indiana constitutions forbid." *Buie v. State*, 633 N.E.2d 250, 261 (Ind. 1994) (citing *North Carolina v. Pearce*, 395 U.S. 711, 717 (1969)). While we recognize there may be

some merit to such a double jeopardy challenge, were it to be brought today, we cannot conclude that appellate counsel was ineffective for failing to anticipate changes in the law that had not yet occurred at the time of the representation. *See Reed v. State*, 856 N.E.2d 1189, 1197 (Ind. 2006) (citation omitted). Only the precedent available to appellate counsel at the time of the direct appeal is relevant to our determination of whether counsel was ineffective.[3] *MuCurry v. State*, 718 N.E.2d 1201, 1206 (Ind. Ct. App. 1999), *trans. denied*. Therefore, the post-conviction court properly denied Vance's claim of ineffective assistance of appellate counsel in this regard.

**2. Sentence**

To the extent that Vance also challenges appellate counsel's performance with respect to his sentence, we observe that Vance was sentenced to 120 years of incarceration in the Department of Correction for his convictions of murder, conspiracy to commit murder, robbery, and conspiracy to commit robbery. We further observe that Vance does not contest at least three of the sentencing court's aggravating factors, including the factor that in killing his mother, he violated a position of trust, or that a single aggravator is sufficient to support an enhanced sentence. *Powell v. State*, 769 N.E.2d 1128, 1135 (Ind. 2002). Vance has neither shown that his sentence would have been different if appellate counsel had not made the alleged errors nor that his 120-year sentence would have been deemed manifestly unreasonable on direct appeal.

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[3] Vance also claims that it may be possible that his convictions for murder and conspiracy to commit murder violated the principles of double jeopardy. Vance, however, presents no evidence to support this claim and we therefore decline to consider this claim further.

Additionally, we note that the decision of what issues to raise is one of the most important strategic decisions to be made by appellate counsel. *Id.* In *Bieghler*, the Indiana Supreme Court noted that one explanation for why the decision of what issues one raises on direct appeal is so important is that "[l]ike other mortals, appellate judges have a finite supply of time and trust; every weak issue in an appellate brief or argument detracts from the attention a judge can devote to the stronger issues, and reduces appellate counsel's credibility before the court. For these reasons, a lawyer who throws every arguable point-'just in case'-is likely to serve her client less effectively than one who concentrates solely on the strong arguments." *Bieghler*, 690 N.E.2d at 194 n.3 (quoting *Miller v. Keeney*, 882 F.2d 1428, 1434 (9th Cir. 1989)). In the absence of a contrary showing, we assume that Vance's appellate counsel made a strategic decision not to overload the appellate court with a slew of arguments of dubious merit, but rather chose to focus in on only Vance's strongest claims on appeal. Vance has failed to show that his counsel's strategic decision to focus in on the strongest claims rather than raise every potential claim available to Vance on appeal was unquestionably unreasonable. Because Vance has failed to show that his counsel's strategic decisions were unquestionably unreasonable or that the outcome of his appeal would have been different had his appellate counsel argued that his sentence was improper on direct appeal, the post-conviction court properly denied his claim for relief on this basis.

Vance has failed to raise any claim that has convinced us that the result of his appeal would have been different had his appellate counsel chosen to raise additional issues on direct appeal. The post-conviction court properly denied Vance's claim of

inefficient assistance of appellate counsel. We therefore conclude that Vance did not receive ineffective assistance of trial or appellate counsel. The denial of the post-conviction relief is affirmed.

The judgment of the post-conviction court is affirmed.

BAKER, C.J., and DARDEN, J., concur.