

IN THE UTAH COURT OF APPEALS

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State of Utah,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20040420-CA
v.)	
)	F I L E D
Ronald Kent Jacobsen,)	(September 13, 2007)
)	
Defendant and Appellant.)	2007 UT App 299

Second District, Farmington Department, 031701596
The Honorable Darwin C. Hansen

Attorneys: Scott L. Wiggins, Salt Lake City, for Appellant
 Brandon L. Poll, Farmington, for Appellee

Before Judges Bench, Greenwood, and McHugh.

PER CURIAM:

Ronald Kent Jacobsen appeals his convictions for simple assault and abuse of an elder adult. Jacobsen alleges that his trial counsel was ineffective because he did not request that a prospective juror be removed for cause or otherwise remove the potential juror with a peremptory challenge. Jacobsen also alleges that the district court committed plain error by not sua sponte removing the prospective juror for cause.

"In order to succeed on an ineffective assistance of counsel claim, Defendant must show (1) trial counsel's performance was deficient by falling below an objective standard of reasonableness, and (2) trial counsel's deficient performance must have prejudiced Defendant by depriving him of a fair trial." State v. Holbert, 2002 UT App 426, ¶53, 61 P.3d 291. Jacobsen fails to demonstrate that he was prejudiced by his attorney's actions; accordingly, there is no reason to address the first prong of the ineffective assistance of counsel analysis.

Jacobsen argues that he was prejudiced by Juror Progress sitting on the jury because of the juror's friendship with a member of the Utah Highway Patrol. However, "[t]he simple fact that a potential juror may have ties to law enforcement does not establish bias." State v. Alfatlawi, 2006 UT App 511, ¶22, 153

P.3d 804. While Juror Progress stated that he believed that a police officer may pay more attention to detail than "the average person," he later indicated that he would not give more credibility to the testimony of an officer than a lay person, that he did not favor the prosecution over the defendant, and that if he were the defendant he would not feel uncomfortable if a person with his mind-set was on the jury. Based upon the totality of Juror Progress's responses, Jacobsen has not demonstrated that Juror Progress was biased against him. Accordingly, Jacobsen fails to demonstrate that he was prejudiced by Juror Progress's inclusion on the jury panel that convicted him.

Jacobsen next claims that the district court committed plain error by failing to remove Juror Progress for cause. "Only where a juror expresses a bias or conflict of interest that is so strong or unequivocal as to inevitably taint the trial process should a trial court overrule trial counsel's conscious decision to retain a questionable juror." State v. Litherland, 2000 UT 76, ¶32, 12 P.3d 92. As discussed above, Juror Progress expressed no such strong or unequivocal bias or conflict of interest. Therefore, the district court did not commit plain error in declining to strike Juror Progress from the jury panel for cause.

Affirmed.

Russell W. Bench,
Presiding Judge

Pamela T. Greenwood,
Associate Presiding Judge

Carolyn B. McHugh, Judge