

IN THE SUPREME COURT OF THE STATE OF NEVADA

TIMOTHY W. GRIMALDI A/K/A TIM  
GRIMALDI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 43608

**FILED**

DEC 13 2004

ORDER OF AFFIRMANCE

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

This is a proper person appeal from an order of the district court denying appellant Timothy W. Grimaldi's motion for new trial. Eighth Judicial District Court, Clark County; Nancy M. Saitta, Judge.

On June 9, 1972, the district court convicted Grimaldi, pursuant to a jury verdict, of murder. The district court sentenced Grimaldi to serve a life term in the Nevada State Prison without the possibility of parole. This court affirmed Grimaldi's judgment of conviction and sentence on appeal.<sup>1</sup>

On April 22, 2004, Grimaldi filed a proper person motion for new trial in the district court. The State opposed the motion as untimely filed. On August 18, 2004, the district court denied Grimaldi's motion for new trial. This appeal followed.<sup>2</sup>

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<sup>1</sup>Grimaldi v. State, 90 Nev. 83, 518 P.2d 615 (1974).


<sup>2</sup>Grimaldi also attempted to appeal an order of the district court denying his petition for a writ of habeas corpus. However, Grimaldi's notice of appeal from this order was untimely filed. Therefore, we lack jurisdiction to consider Grimaldi's appeal from the order denying the habeas corpus petition. See NRAP 4(b)(1); Lozada v. State, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994).

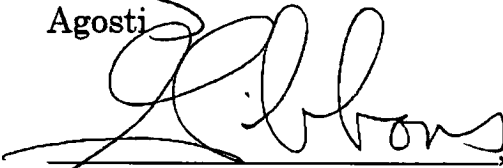
In his motion for new trial, Grimaldi argued that there was insufficient evidence at trial to support his conviction. However, a motion for new trial based on any ground other than newly discovered evidence "must be made within 7 days after the verdict or finding of guilt."<sup>3</sup> Thus, Grimaldi's motion was untimely filed. Accordingly, we conclude that the district court did not err in denying Grimaldi's motion for new trial.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Grimaldi is not entitled to relief and that briefing and oral argument are unwarranted.<sup>4</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Becker

  
\_\_\_\_\_, J.  
Agosti

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

cc: Hon. Nancy M. Saitta, District Judge  
Timothy W. Grimaldi  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>3</sup>NRS 176.515(4).

<sup>4</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).