

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD A. GONCE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43785

FILED

JAN 25 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant Richard Gonce's post-conviction motion for return of seized property. Eighth Judicial District Court, Clark County; Jackie Glass, Judge.

On November 24, 1999, the district court convicted Gonce, pursuant to a guilty plea, of one count each of robbery and conspiracy to commit robbery. The district court sentenced Gonce to serve a term of thirty to seventy-five months in the Nevada State Prison for the robbery count, and a concurrent term of twelve to thirty months for the conspiracy count. Gonce did not file a direct appeal.

On July 21, 2004, Gonce filed a proper person motion for return of seized property in the district court. The State opposed the motion. On August 10, 2004, the district court denied Gonce's motion. This appeal followed.

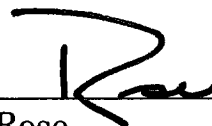
In his motion, Gonce argued that because the State did not initiate a forfeiture action, he is entitled to the return of numerous items of seized property in the possession of the Las Vegas Metropolitan Police Department.

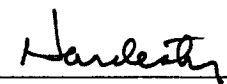
We conclude that this claim is without merit. The written guilty plea agreement—which Gonce acknowledged having read, understood, and signed—provided that he waived any right to claim any interest in property "directly or indirectly purchased with the proceeds of the robbery of the United Coin Company, whether such property is seized pursuant to a state or federal forfeiture proceeding or by a private claim made by United Coin Company and/or its assigns or those with a right or subrogation." Gonce failed to demonstrate, or even allege, that the seized property was not purchased with proceeds of the robbery. Further, United Coin Company's insurer, Chubb Insurance Group, has initiated a civil action against Gonce and his co-defendants to recover their loss. Therefore, the district court did not err in denying Gonce's motion.

Having reviewed the record on appeal and for the reasons set forth above, we conclude that Gonce is not entitled to relief and that briefing and oral argument are unwarranted.¹ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Becker


_____, J.
Rose


_____, J.
Hardesty

¹See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

cc: Hon. Jackie Glass, District Judge
Richard A. Gonce
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk