

IN THE SUPREME COURT OF THE STATE OF NEVADA


PERRION PIPER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 44371

**FILED**

FEB 03 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court dismissing appellant's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Judge.

On July 27, 2004, the district court convicted appellant, pursuant to a jury verdict, of one count of grand larceny and one count of burglary. The district court adjudicated appellant a habitual criminal and sentenced appellant to serve two concurrent prison terms of 60 to 240 months. Appellant's direct appeal is currently pending in this court in Docket No. 43887.

On August 13, 2004, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On November 9, 2004, the district court dismissed appellant's petition without prejudice. This appeal followed.

Our review of the record on appeal reveals that the district court dismissed appellant's petition without prejudice because his direct appeal was pending in this court. No rule of law prevents the district court from exercising jurisdiction over a habeas corpus petition in these

circumstances.<sup>1</sup> We conclude, however, that the district court did not abuse its discretion in dismissing appellant's petition in order to preserve judicial economy. Because appellant's petition was dismissed without prejudice, he can re-file his petition immediately, or wait and file a petition within one year from the issuance of the remittitur of this court's decision concerning his direct appeal.<sup>2</sup>

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.<sup>3</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Becker, C. J.  
Becker

Rose, J.  
Rose

Hardesty, J.  
Hardesty

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<sup>1</sup>See Sheriff v. Gleave, 104 Nev. 496, 498, 761 P.2d 416, 418 (1988) (holding that "[h]abeas corpus is an independent proceeding"); Varwig v. State, 104 Nev. 40, 752 P.2d 760 (1988).

<sup>2</sup>Any subsequent petitions will be subject to the procedural requirements set forth in NRS chapter 34.

<sup>3</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

cc: Hon. Joseph T. Bonaventure, District Judge  
Perrion Piper  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk