

IN THE SUPREME COURT OF THE STATE OF NEVADA

REGINALD STEWART A/K/A
REGINALD DESHON STEWART,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44571

FILED

APR 19 2005

JANEITE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE AND LIMITED REMAND TO CORRECT
THE JUDGMENT OF CONVICTION

This is a proper person appeal from an order of the district court denying appellant Reginald Stewart's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; John S. McGroarty, Judge.

On April 30, 2003, the district court convicted Stewart, pursuant to a jury verdict, of two counts of robbery with the use of a deadly weapon, one count of conspiracy to commit robbery, one count of burglary while in possession of a firearm, and one count of ex-felon in possession of a firearm. The district court sentenced Stewart to serve multiple concurrent and consecutive terms totaling 71 to 288 months in the Nevada State Prison. This court affirmed Stewart's judgment of conviction and sentence on direct appeal.¹ The remittitur issued on October 17, 2003.

On August 18, 2004, Stewart filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The

¹Stewart v. State, Docket No. 41441 (Order of Affirmance and Remand to Correct Judgment of Conviction, September 22, 2003).

State opposed the petition. On September 29, 2004, Stewart filed a motion to amend his petition and requested an extension of time. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent Stewart or to conduct an evidentiary hearing. On December 2, 2004, the district court denied Stewart's petition and motion. This appeal followed.

In his petition, Stewart alleged that his trial and appellate counsel were ineffective. However, Stewart provided no facts whatsoever to support either of these assertions. Instead, Stewart stated in his petition, "I am indigent and do not understand the law and need counsel appointed to help me complete this petition and file a supplemental petition."

We conclude that the district court did not err in denying Stewart's petition and motion. Stewart did not include specific facts to support his ineffective assistance of counsel claims.² Further, Stewart failed to demonstrate that the district court abused its discretion in denying his request for the appointment of counsel.³ Therefore, we affirm the order of the district court.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Stewart is not entitled to relief and that briefing and oral argument are unwarranted.⁴ However, our review of the judgment of conviction reveals an error. Although this court previously remanded the matter to the district court for a correction of Stewart's


²See Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984).

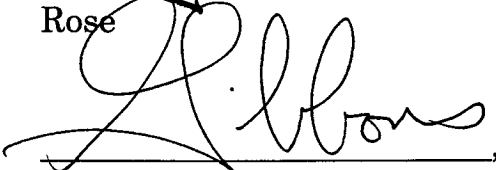
³See NRS 34.750(1).

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

judgment of conviction, it appears that his judgment of conviction was never corrected. Stewart's judgment of conviction states that he was convicted pursuant to a guilty plea when, in fact, he was convicted pursuant to a jury verdict. We therefore conclude that this matter should be remanded to the district court for a correction of the error. Accordingly, we

ORDER the judgment of the district court AFFIRMED and REMAND this matter to the district court for the limited purpose of correcting the judgment of conviction.


_____, J.
Rose


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. John S. McGroarty, District Judge
Reginald Stewart
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk