

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID MATTHEW BURBANK,
Petitioner,
vs.
THE FIFTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
MINERAL,
Respondent,
and
THE STATE OF NEVADA,
Real Party in Interest.

No. 45542

FILED

AUG 24 2005

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

ORDER DENYING PETITION

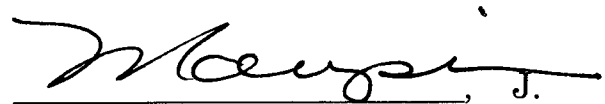
This is a proper person petition for extraordinary relief. Citing to Article 6, Section 4 of the Nevada Constitution, petitioner challenges the validity of his judgment of conviction and requests this court to consider his claims on the merits.

This court has held that it "will not exercise its original jurisdiction to consider a writ petition in a criminal case raising claims that could or should have been raised in an appeal or in an appropriate post-conviction proceeding in the district court."¹ We have reviewed the documents before this court, and we decline to exercise this court's original jurisdiction in this matter. Petitioner may raise his claims in a post-

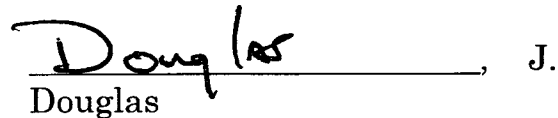
¹Hosier v. State, 121 Nev. ___, ___, ___ P.3d ___, ___ (Adv. Op. No. 41, August 11, 2005).

conviction petition for a writ of habeas corpus filed in the district court.²
Petitioner may appeal to this court from a final, adverse decision.³
Accordingly, we

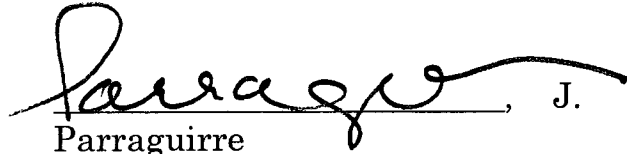
ORDER the petition DENIED.⁴



Maupin



Douglas



Parraguirre

²See NRS 34.724(2)(b); NRS 34.738(1). We express no opinion as to whether petitioner could satisfy the procedural requirements of NRS chapter 34.

³See NRS 34.575(1).

⁴We have received all proper person documents submitted in this matter, and we conclude that no relief is warranted for the reason set forth above. We caution petitioner that a prisoner may forfeit all deductions of time earned by the prisoner if the court finds that the prisoner has filed a document in a civil action and the document contains a claim or defense included for an improper purpose, the document contains a claim or defense not supported by existing law or a reasonable argument for a change in existing law, or the document contains allegations or information presented as fact for which evidentiary support is not available or is not likely to be discovered after further investigation. See NRS 209.451(1)(d); Hosier, 121 Nev. at ___, ___ P.3d at ___. A petition for a writ of habeas corpus is a civil action for purpose of this statute. NRS 209.451(5).

cc: David Matthew Burbank
Attorney General Brian Sandoval/Carson City
Mineral County District Attorney
Mineral County Clerk