

IN THE SUPREME COURT OF THE STATE OF NEVADA

ERIC W. ZESSMAN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 46180

**FILED**

MAY 12 2006

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's motion for the return of seized property. Eighth Judicial District Court, Clark County; Jackie Glass, Judge.

On June 20, 2003, the district court convicted appellant of one count of conspiracy to commit robbery pursuant to a guilty plea and one count of robbery pursuant to a plea of nolo contendere.<sup>1</sup> The district court sentenced appellant to serve a term of twenty-four to seventy-five months in the Nevada State Prison for robbery and a concurrent term of twelve to thirty months for conspiracy. This court affirmed the judgment of conviction on direct appeal.<sup>2</sup> The remittitur issued on October 21, 2003.

On August 18, 2005, appellant filed a proper person motion for the return of seized property in the district court. The State opposed the motion. On October 17, 2005, the district court denied appellant's motion. This appeal followed.

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<sup>1</sup>The district court entered amended judgments of conviction on August 5, 2003, and September 9, 2003.

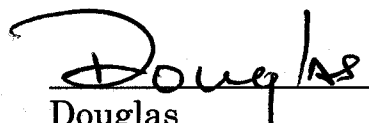
<sup>2</sup>Zessman v. State, Docket No. 41490 (Order of Affirmance, September 24, 2003).


Appellant contended that he had a right to the return of his seized property because the State had not initiated forfeiture proceedings. An action for the return of property based on the State's failure to initiate a forfeiture proceeding is a civil action, not a criminal action.<sup>3</sup> Because appellant filed his motion in his criminal case, we conclude the district court did not err in denying the motion.

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>4</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Rose

  
\_\_\_\_\_, J.  
Douglas

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

cc: Honorable Jackie Glass, District Judge  
Eric W. Zessman  
Attorney General George Chanos/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>3</sup>See NRS 179.1171(3). Further, the property was not illegally seized and, therefore, NRS 179.085 was not implicated.

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