

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM ELDRIDGE CALDWELL,
Appellant,
vs.
ERIC W. RUSLEY, AND OFFICE OF
CLARK COUNTY PUBLIC DEFENDER,
Respondents.

No. 46377

FILED

MAY 19 2006

JANE P. M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF AFFIRMANCE

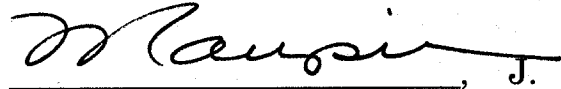
This is a proper person appeal from a district court order dismissing appellant's legal malpractice complaint. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Having reviewed the record and appellant's proper person appeal statement, we conclude that the district court did not err.¹ In particular, appellant did not assert that he has obtained relief from his

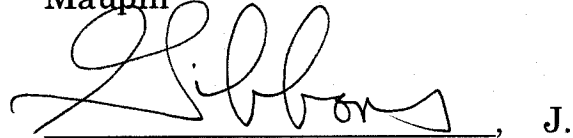
¹See NRCP 12(b)(5); Breliant v. Preferred Equities Corp., 109 Nev. 842, 845, 858 P.2d 1258, 1260 (1993) (noting that, in determining whether a claim has been stated, all inferences must be construed in favor of the non-moving party, and all factual allegations in the complaint must be accepted as true); Edgar v. Wagner, 101 Nev. 226, 699 P.2d 110 (1985) (stating that, in reviewing an order granting a motion to dismiss, this court's task is to determine whether the challenged pleading sets forth allegations sufficient to make out the elements of a right to relief).

conviction, and thus he cannot maintain a legal malpractice action against his criminal defense attorney.² Accordingly, we

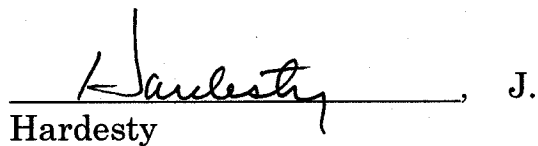
ORDER the judgment of the district court AFFIRMED.

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

cc: Hon. Michelle Leavitt, District Judge
William Eldridge Caldwell
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger/Civil Division
Clark County Clerk

²See Morgano v. Smith, 110 Nev. 1025, 1028-29, 879 P.2d 735, 737-38 (1994) (holding that a legal malpractice action against a criminal defense attorney cannot be maintained unless the plaintiff has obtained appellate or post-conviction relief from the conviction or sentence, or otherwise established innocence of the charges).