

IN THE SUPREME COURT OF THE STATE OF NEVADA

PAUL MAURICE COBB,  
Appellant,  
vs.  
BRYAN A. COX AND ROBERT M.  
GARDNER,  
Respondents.

No. 46558

**FILED**

JUL 05 2006

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

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order dismissing appellant's complaint for legal malpractice against his court-appointed criminal defense counsel. Eighth Judicial District Court, Clark County; Kathy A. Hardcastle, Judge.


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

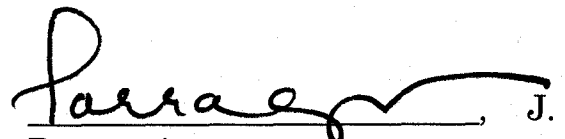
---

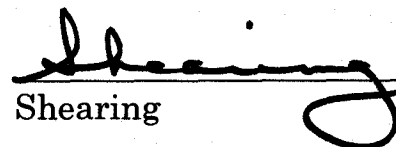
<sup>1</sup>See NRCP 12(b)(5); Breliant v. Preferred Equities Corp., 109 Nev. 842, 845, 858 P.2d 1258, 1260 (1993) (noting that, in determining whether a claim has been stated, all inferences must be construed in favor of the non-moving party, and all factual allegations in the complaint must be accepted 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 attorneys.<sup>2</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>3</sup>

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

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, Sr. J.  
Shearing

---

<sup>2</sup>See 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).

<sup>3</sup>The Honorable Miriam Shearing, Senior Justice, participated in the decision of this matter under a general order of assignment entered January 6, 2006.

cc: Hon. Kathy A. Hardcastle, District Judge  
Paul Maurice Cobb  
Clark County Public Defender Philip J. Kohn  
Clark County Clerk