

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHNNY LEE JONES A/K/A JOHNNY
JONES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49525

FILED

NOV 08 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER AFFIRMING IN PART, REVERSING IN PART AND
REMANDING

This is a proper person appeal from a district court order denying a post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

On November 18, 2005, the district court convicted appellant Johnny Lee Jones, pursuant to a jury verdict, of conspiracy to commit robbery, three counts of burglary and three counts of robbery. The district court sentenced Jones to serve multiple concurrent and consecutive terms in prison, the lengthiest being 48 to 180 months for one of the robbery convictions. We dismissed Jones's direct appeal because he filed an untimely notice of appeal.¹

On January 22, 2007, Jones filed a proper person post-conviction petition for a writ of habeas corpus, which the district court summarily denied. This appeal followed.

¹Jones v. State, Docket No. 46667 (Order Dismissing Appeal, March 7, 2006).

In his petition, Jones contended that counsel was ineffective for failing to gather witnesses and evidence to support his insanity defense. However, Jones neglected to identify what witnesses and evidence he desired counsel to introduce at trial. Jones presented nothing more than a bare claim for relief unsupported by any specific factual allegations.² We therefore conclude that the district court did not err in summarily denying this claim.

Jones next asserted that counsel advised him after the sentencing hearing that counsel would file a direct appeal on Jones's behalf. Jones is entitled to an evidentiary hearing if he raises a claim that is not belied by the record and, if true, would entitle him to relief.³ If a client expresses a desire to appeal, counsel is obligated to file a notice of appeal on the client's behalf.⁴ Here, Jones's appeal deprivation claim is not belied by the record, and may, if true, entitle him to relief. We conclude that the district court erred in summarily denying this claim. Accordingly, we remand this matter to the district court for an evidentiary hearing.

Finally, Jones argued that the district court erroneously denied his request to represent himself at trial, that the jurors were biased and should have been dismissed when he threw documents at them and that he was prejudiced by being handcuffed and having his mouth

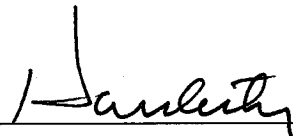
²See Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984).

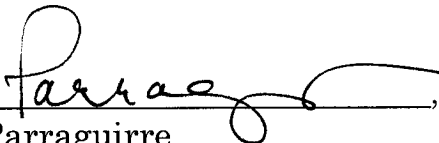
³Id. at 503, 686 P.2d at 225.

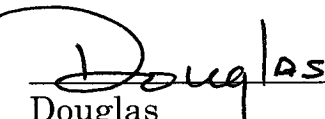
⁴See Hathaway v. State, 119 Nev. 248, 255, 71 P.3d 503, 508 (2003); Thomas v. State, 115 Nev. 148, 151, 979 P.2d 222, 224 (1999).

taped shut at trial. However, these matters are appropriate for direct appeal, and we decline to consider them at this time in light of our order remanding this matter for an evidentiary hearing. If the district court concludes that Jones was not deprived of his right to a direct appeal, the district court should enter an order disposing of all claims. Accordingly, we

ORDER the judgment of the district court AFFIRMED IN PART AND REVERSED IN PART AND REMAND this matter to the district court for proceedings consistent with this order.⁵


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. Valerie Adair, District Judge
Johnny Lee Jones
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

⁵This order constitutes our final disposition of this appeal. Any subsequent appeal from an order of the district court denying Jones's appeal deprivation claim and the claims not reached in this order shall be docketed as a new matter.