

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT ALLEN WHITLEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49678

FILED

DEC 10 2007

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's petition for a writ of prohibition. Second Judicial District Court, Washoe County; Robert H. Perry, Judge.

On March 22, 2006 appellant filed a proper person petition for writ of prohibition in the district court.¹ On June 7, 2007, the district court denied the petition. This appeal followed.

Appellant asserted that he had been interviewed by Reno police detectives about a pending case in January 2005, in which he was a suspect, and the detectives did not immediately cease their interview with him when he asserted his right to counsel. Although the detectives informed appellant they would be submitting the case for prosecution immediately after their interview with him, appellant asserted he has never received notice that a complaint or information have been filed or

¹Appellant's petition was docketed in appellant's criminal case CR041020. It appears that docketing the petition in this criminal case was improper because the petition did not pertain to this criminal case. We conclude, however, that any error in docketing the petition in appellant's criminal case was harmless.

that grand jury proceedings have been initiated. Appellant claimed that the State was maliciously withholding speedy prosecution of that case in order to deprive him of the possibility of concurrent sentencing and the failure to proceed with the case has violated his speedy trial rights. Appellant also asserted that he has been denied his right to counsel on that pending case. Appellant requested the court to order the State to proceed with prosecution of the pending case and appoint counsel to represent him.

A petition for a writ of prohibition "arrests the proceedings of any tribunal, corporation, board or person exercising judicial functions, when such proceedings are without or in excess of the jurisdiction of such tribunal, corporation, board or person."² A writ of prohibition may issue only where there is no plain, speedy, and adequate remedy at law.³ A district court's denial of writ relief is reviewed for an abuse of discretion.⁴

In denying appellant's petition, the district court concluded that there were no formal charges brought against appellant after his discussion with the detectives and appellant failed to provide the court with evidence that any entity had exercised any judicial function against appellant. Based upon our review of the documents presented, we conclude that the district court's conclusions are supported by the record and the district court did not abuse its discretion in denying appellant's

²NRS 34.320.

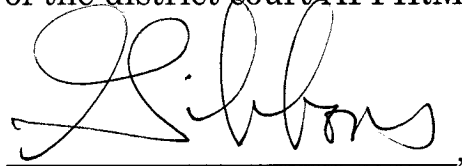
³NRS 34.330.

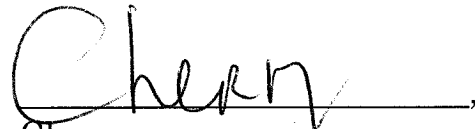
⁴Koller v. State, 122 Nev. 223, 226, 130 P.3d 653, 655 (2006).

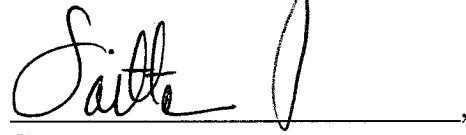
petition. Therefore, we affirm the district court's denial of appellant's petition.

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.⁵ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁶


_____, J.
Gibbons


_____, J.
Cherry


_____, J.
Saitta

cc: Hon. Robert H. Perry, District Judge
Robert Allen Whitley
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

⁵See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁶We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.