

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL L. QUARANTO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 49776

FILED

DEC 27 2007

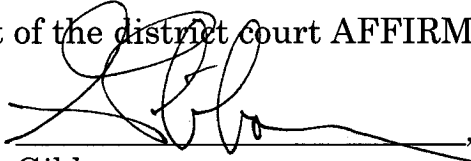
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CLERK OF SUPREME COURT
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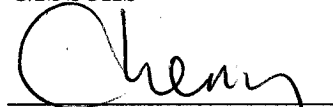
ORDER OF AFFIRMANCE

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

We have reviewed the record on appeal, and we conclude that the district court did not err in denying appellant's petition for the reasons stated in the attached order. Therefore, briefing and oral argument are not warranted in this case.¹ Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, J.
Gibbons


_____, J.
Cherry


_____, J.
Saitta

¹See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

²We 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.

cc: Hon. Michael Villani, District Judge
Daniel Louis Quaranto Jr.
Attorney General Catherine Cortez Masto/Carson City
Attorney General Catherine Cortez Masto/Las Vegas
Eighth District Court Clerk

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[Signature]
CLERK OF THE COURT
CLERK OF THE COURT

1 **ORDR**
2 **CATHERINE CORTEZ MASTO**
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12 **Attorney for State of Nevada**

13 **DISTRICT COURT**
14 **CLARK COUNTY, NEVADA**

15 * * *

16 **DANIEL L. QUARANTO,**
17 **Petitioner,**
18 **vs.**
19 **DWIGHT NEVEN, Warden HDSP,**
20 **Respondent.**

21 **CASE NO.: C189722**
22 **DEPT. NO.: 17**

23 **Date of Hearing: June 7, 2007**
24 **Time of Hearing: 8:30 a.m.**

25 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER DENYING PETITION FOR**
26 **WRIT OF HABEAS CORPUS (POST CONVICTION)**

27 **THIS CAUSE** having come on for hearing before the Honorable MICHAEL VILLANI,
28 District Court Judge, on the 7th day of June, 2007, the Petitioner not being present, in proper
person, and the Respondent represented by CATHERINE CORTEZ MASTO, Attorney
General for the State of Nevada, by and through Jamie J. Resch, Deputy Attorney General,
and the Court having considered the matter, including briefs, transcripts, arguments of
counsel, and all pleadings and documents on file herein, now, therefore, the Court makes the
following findings of fact and conclusions of law:

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CLERK OF THE COURT

[Handwritten initials]

FINDINGS OF FACT

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2 1. In Clark County District Court case C189718, Quaranto was convicted of
3 Trafficking in a Controlled Substance, and sentenced to 12 to 36 months in state prison, said
4 sentence having at this time expired.

5 2. In Clark County District Court case C189347, Quaranto was convicted of
6 Robbery with Use of a Deadly Weapon and First Degree Kidnapping. He received 26-120
7 months for the robbery, with an equal and consecutive sentence for the use of a deadly
8 weapon. A sentence of 5 years to life was imposed on the kidnapping charge. The counts
9 were run concurrent to one another and concurrent to Quaranto's other cases.

10 3. In the present case, Clark County District Court case C189722, Quaranto was
11 convicted of Robbery with Use of a Deadly Weapon and was sentenced to 26-120 months in
12 state prison, with an equal and consecutive sentence for the use of a deadly weapon, with this
13 sentence concurrent to his other cases.

14 4. On March 29, 2007 Quaranto filed a Petition for Writ of Habeas Corpus (Post-
15 Conviction) in C189722 in which he contends the Nevada Department of Corrections
16 improperly ran the sentence in C189722 consecutive to C189347.

17 5. The Court finds the Nevada Department of Corrections properly computed
18 Quaranto's sentence, and that C189722 is running concurrent to C189347. Both C189722
19 and C189347 are cases which feature a deadly weapon sentencing enhancement, which must
20 run consecutive to the underlying conviction, but that the underlying sentences imposed in
21 each case are running concurrent to one another.

22 6. As such, Quaranto's claims are baseless and amount to nothing more than bare
23 naked allegations. Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984).

24 7. The Court finds Quaranto's petition is without merit and that an evidentiary
25 hearing is not required.
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CONCLUSIONS OF LAW

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2 1. In Nevada, a prisoner may only challenge the judgment of conviction or
3 sentence in a criminal case, or the computation of time the prisoner has served under the
4 judgment of conviction. NRS 34.720. Quaranto has challenged the computation of time
5 under his sentence of incarceration, but said challenge is without merit.

6 2. The Judgment of Conviction in the present case, C189722, is expressly worded
7 to run concurrent to cases C189347 and C189718, and the Nevada Department of
8 Corrections has properly computed Quaranto's sentence consistent with the wording of the
9 Judgment of Conviction.

10 3. Quaranto's claims are baseless and amount to nothing more than bare naked
11 allegations. Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984).

12 4. Pursuant to NRS 34.770(1), the Court, upon review of the return, answer, and all
13 supporting documents which are filed, shall determine whether an evidentiary hearing is
14 required. The Nevada Supreme Court in Hargrove v. State, 100 Nev. 498, 686 P.2d 222
15 (1984), held that to the extent a petitioner advances merely "naked" allegations, he is not
16 entitled to an evidentiary hearing.

17 5. Furthermore, NRS 34.770 provides that if the reviewing court determines that a
18 petitioner is not entitled to relief and an evidentiary hearing is not required, the court shall
19 dismiss the petition without a hearing. An evidentiary hearing is not necessary in the instant
20 case as all of Quaranto's claims are belied by the record. As such, Quaranto's petition for
21 post conviction relief should be denied.
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ORDER

Based on the Findings of Fact and Conclusions of Law contained herein:

IT IS HEREBY ORDERED that the Petition for Post-Conviction Relief shall be, and it is, hereby **DENIED**.

DATED this 11 day of June, 2007.



DISTRICT COURT JUDGE

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SUBMITTED BY:

CATHERINE CORTEZ MASTO
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By:



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