

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHNE W. JAY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 51051

FILED

OCT 21 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

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

On March 16, 2007, the district court convicted appellant John W. Jay, pursuant to an Alford¹ plea, of possession of a stolen vehicle. The district court sentenced appellant to serve a term of 48 to 120 months in the Nevada State Prison. No direct appeal was taken.

On October 31, 2007, appellant filed a timely proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. Pursuant to NRS 34.750 and 34.770, the

¹North Carolina v. Alford, 400 U.S. 25 (1970).

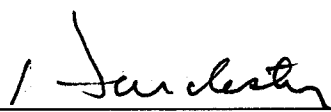
district court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On February 8, 2008, the district court denied appellant's petition. This appeal followed.

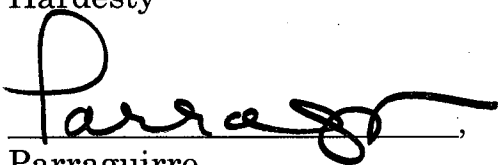
In his petition, appellant claimed that the district court incorrectly sentenced him because the State did not properly prove that the value of the stolen vehicle was over \$2,500. Appellant argued that the insurance company's value for replacement cost was insufficient to prove the actual value of the vehicle; therefore, he should have received a lesser sentence. Appellant failed to demonstrate that he was entitled to relief. It appears that appellant sought to modify his sentence; however, appellant failed to demonstrate that the district court relied upon a mistaken fact about his criminal record that worked to his extreme detriment.² By way of information, appellant was charged with a class B felony. Pursuant to his guilty plea, appellant agreed to relieve the State of its burden of proving that he committed the charged offense beyond a reasonable doubt. Further, during the plea canvass, the State produced sufficient evidence for a factual basis for appellant's plea. Therefore, the district court did not err in denying this claim.

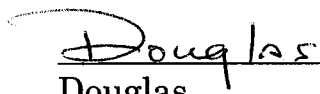
²Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996).

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.³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁴


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

³See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁴We 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. Elizabeth Goff Gonzalez, District Judge
Johne W. Jay
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk