

IN THE SUPREME COURT OF THE STATE OF NEVADA

BILLY RAY RILEY,
Petitioner,

vs.

WARDEN, ELY STATE PRISON, E.K.
MCDANIEL; AND THE STATE OF
NEVADA,
Respondents.

No. 52549

FILED

NOV 19 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY Handwritten Signature
DEPUTY CLERK

ORDER DENYING PETITION

This is an original petition for a writ of habeas corpus “to inquire into the validity of [petitioner’s] conviction of first-degree murder and sentence of death.” Petitioner’s original writ petition stems from the district court’s denial of post-conviction relief based on petitioner’s claim that this court’s decision in McConnell v. State¹ entitled him to a new penalty hearing. We have considered the petition, and we are not satisfied that habeas relief is warranted. Petitioner’s remedy for challenging the district court’s denial of his post-conviction petition was to file a timely notice of appeal,² which petitioner failed to do. Extraordinary relief is not

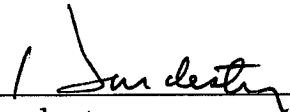
¹120 Nev. 1043, 102 P.3d 606 (2004).


²NRS 34.575(1); NRAP 4(b)(1).

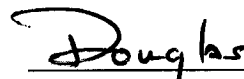
appropriate to circumvent other appropriate avenues of review or avoid procedural bars.³

Accordingly, we

ORDER the petition DENIED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. David B. Barker, District Judge
Federal Public Defender/Las Vegas
Attorney General Catherine Cortez Masto/Reno
Clark County District Attorney David J. Roger
Eighth District Court Clerk

³Hosier v. State, 121 Nev. 409, 412, 117 P.3d 212, 213 (2005); Director, Dep't of Prisons v. Arndt, 98 Nev. 84, 85, 640 P.2d 1318, 1319 (1982); Eureka Bank Cases, 35 Nev. 80, 126 P. 655 (1912); Ex parte Winston, 9 Nev. 71, 75 (1873).