

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES ANDERSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 35105

**FILED**

SEP 18 2000

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Ribon*  
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a proper person appeal from an order of the district court dismissing appellant's post-conviction petition for a writ of habeas corpus.

On February 4, 1999, the district court convicted appellant, pursuant to a jury trial, of one count of grand larceny and one count of possession of stolen property. The district court sentenced appellant to serve a minimum term of twenty-four months to a maximum term of sixty months for larceny, and a minimum term of twenty-four months to a maximum term of sixty months for possession of stolen property, the latter to be served consecutive to the former. This court reversed appellant's conviction for possession of stolen property and remanded the matter to the district court to enter a corrected judgment of conviction. Anderson v. State, Docket No. 33841 (Order of Reversal and Remand, June 10, 1999). On September 13, 1999, the district court entered an amended judgment of conviction as instructed.

On July 16, 1999, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court.<sup>1</sup> The State opposed the petition. Pursuant to

<sup>1</sup>Appellant labeled his petition a "petition for an extraordinary writ of habeas corpus ad-subjiciendum and nisi plea." Because appellant challenges his judgment of conviction, we conclude that the district court did not err in construing appellant's petition to be a post-conviction petition for a writ of habeas corpus. See NRS 34.724(2)(b) (stating that a post-conviction petition for a writ of habeas corpus "[c]omprehends and takes the place of all other common law, statutory or other remedies which have been available for challenging the validity of the conviction or sentence, and must be used exclusively in place of them").

NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On November 8, 1999, the district court dismissed appellant's petition. This appeal followed.

In his petition, appellant contended that his conviction was invalid because he was denied the right to presentment or indictment by the grand jury in violation of his birth right and heritage which was established under the Magna Carta. Appellant claimed that his counsel was ineffective in failing to challenge this alleged violation of his rights. Appellant argued that these errors resulted in the district court's improper exercise of jurisdiction over the criminal case. We conclude that these claims lacked merit. A prosecution may be initiated by either the filing of a grand jury presentment or indictment or the filing of an information. See Nev. Const. art. 1, § 8; see also NRS 172.015; NRS 173.015; NRS 173.025; NRS 173.035. Appellant's case originated with the filing of an information after a preliminary hearing. Therefore, appellant's counsel was not ineffective in failing to challenge the lack of grand jury proceedings. See Strickland v. Washington, 466 U.S. 668 (1984). Appellant's claim relating to the district court's jurisdiction is wholly without merit.

Next, appellant claimed that the evidence presented at trial was questionable because: (1) Desert Plumbing Company falsely claimed that they were the owners of the items found in appellant's possession and destroyed the evidence prior to trial that would have proven his innocence, (2) the prosecutor denied appellant's discovery motion, and (3) the prosecutor introduced allegedly false evidence at trial. Appellant waived any challenge to the sufficiency of the evidence and claims of prosecutorial misconduct by failing to raise these claims on direct appeal. See NRS 34.810(1)(b)(2).

Finally, appellant argued that as a result of his alleged unlawful confinement, he was entitled to at least two

million dollars in damages. We conclude that appellant is not entitled to the relief requested.

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. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975), cert. denied, 423 U.S. 1077 (1976).

Accordingly, we

ORDER this appeal dismissed.<sup>2</sup>

Young, J.  
Young  
Maupin, J.  
Maupin  
Becker, J.  
Becker

cc: Hon. James A. Brennan, District Judge  
Attorney General  
Clark County District Attorney  
James Anderson  
Clark County Clerk

<sup>2</sup>We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.