

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEPHEN FINIS GATTIS,
Appellant,
vs.
SHERIFF ANTHONY L. DEMEO, NYE
COUNTY SHERIFF, THE STATE OF
NEVADA,
Respondent.

No. 57993

FILED

MAY 09 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Malone*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an amended order of the district court “quashing” appellant Stephan Finis Gattis’s post-conviction petition for a writ of habeas corpus.¹ Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

First, Gattis contends that the district court erred by holding him to the guilty plea in this case because it was part of a global resolution of several cases that unraveled prior to sentencing. It is not clear that this contention was presented to the district court in the first instance. However, even assuming that it was, we conclude that it was procedurally barred by NRS 34.810(1)(a) and therefore the district court did not err by denying the petition on this ground.

Second, Gattis contends that the district court erred by finding that there was no double jeopardy violation. The record indicates that the district court reached the merits of Gattis’s double jeopardy claim. We

¹We construe this as an order “denying” Gattis’s petition.

conclude that it was procedurally barred by NRS 34.810(1)(a) and the district court reached the right result when it denied this claim. See Picetti v. State, 124 Nev. 782, 790, 192 P.3d 704, 709 (2008) (this court may affirm a decision that reaches the right result for the wrong reason).

Third, Gattis contends that the district court erred by finding that “there was no ineffective assistance of counsel.” Gattis specifically claims that defense counsel, Jason Ernest, was ineffective because he deprived Gattis of his expertise and thereby minimized Gattis’s chances of timely identifying and focusing on the ineffective assistance he received from another defense counsel in a related case. Because this issue was not raised in Gattis’s petition and does not appear to have been asserted during the evidentiary hearing,² we decline to consider it on appeal. See Davis v. State, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991) (this court need not consider arguments raised on appeal that were not presented to the district court in the initial petition), overruled on other grounds by Means v. State, 120 Nev. 1001, 1012-13, 103 P.3d 25, 33 (2004). But see Barnhart v. State, 122 Nev. 301, 303, 130 P.3d 650, 651-52 (2006) (the district court may allow a petitioner to assert a new claim during an evidentiary hearing).

²Although the district court minutes indicate that an evidentiary hearing was held on Gattis’s habeas petition, a transcript of this hearing was not included in the record on appeal. See Greene v. State, 96 Nev. 555, 558, 612 P.2d 686, 688 (1980) (appellant has the burden to provide this court an adequate record to review assignments of error asserted on appeal).

Having considered Gattis's contentions and concluded that he is not entitled to relief, we

ORDER the judgment of the district court AFFIRMED.

Douglas, J.
Douglas

Gibbons, J.
Gibbons

Parraguirre, J.
Parraguirre

cc: Hon. Robert W. Lane, District Judge
David R. Fischer
Nye County District Attorney
Nye County Clerk