

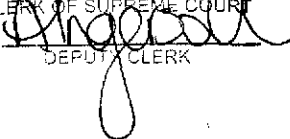
IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL T. ECHEVARRIA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 62116

FILED

DEC 12 2013

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY:   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is a proper person appeal from an order denying a petition for a writ of coram nobis.<sup>1</sup> Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

In his petition filed on October 8, 2012, appellant claimed that the State withheld evidence, he received ineffective assistance of counsel and his guilty plea was invalid due to the ineffective assistance of counsel. The district court treated the petition as a post-conviction petition for a writ of habeas corpus, concluding that the writ of coram nobis was superceded by a post-conviction petition for a writ of habeas corpus pursuant to NRS 34.724(2)(b), and denied the petition because appellant could not satisfy the custody requirement of a post-conviction petition for a writ of habeas corpus.

The district court erred in treating the petition as a post-conviction petition for a writ of habeas corpus because a post-conviction

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<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. *See Luckett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

petition for a writ of habeas corpus does not supercede a petition for a writ of coram nobis when the petitioner is no longer in custody on the conviction challenged. *See Trujillo v. Warden*, 129 Nev. \_\_\_, 310 P.3d 594 (2013) (recognizing the availability of the common law petition for a writ of coram nobis for petitioners not in custody on the conviction being challenged). Nevertheless, the district court correctly denied the petition because the claims fell outside the narrow scope of claims permissible in a petition for a writ of coram nobis as the claims involved legal error and not factual error that would have precluded entry of the judgment of conviction. *Id.* Because the district court reached the correct result in denying the petition, we

ORDER the judgment of the district court AFFIRMED.

Pickering, C.J.  
Pickering

Hardesty, J.  
Hardesty

Cherry, J.  
Cherry

cc: Hon. Douglas Smith, District Judge  
Michael T. Echevarria  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk