

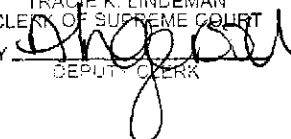
IN THE SUPREME COURT OF THE STATE OF NEVADA

DENNIS SAVARESE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 62431

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; Kathleen E. Delaney, Judge.

Appellant filed a petition for a writ of coram nobis on November 6, 2012, challenging the validity of his 1994 judgment of conviction and sentence.<sup>2</sup> The district court entered a written order summarily denying the petition. This appeal followed.

In his petition, appellant first claimed that the district court's plea canvass was inadequate rendering his plea involuntary and unknowing, he received ineffective assistance of counsel, and there was no factual basis for his plea. None of these claims are properly raised in a petition

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

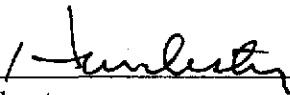
<sup>2</sup>A petition for a writ of coram nobis is an available remedy in the instant case because appellant was no longer in custody on the conviction being challenged in his petition. *See Trujillo v. State*, 129 Nev. \_\_\_, \_\_\_, 310 P.3d 594, \_\_\_ (2013).

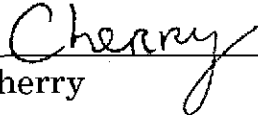
for a writ of coram nobis because they are claims arising from alleged factual errors that are on the record, the claims could have been raised earlier, or they involve legal and not factual errors. *See Trujillo*, 129 Nev. at \_\_\_, 310 P.3d at \_\_\_.

Appellant next claimed that he suffered a cognitive impairment at the time of the plea and conviction. While a claim that a petitioner was mentally incompetent at the time of the plea may fit within the scope of a petition for a writ of coram nobis, *see id.*, appellant failed to demonstrate the district court made any errors of fact that would have precluded the judgment from being entered because appellant failed to demonstrate that he was incompetent at the time of his plea or sentencing. *See Godinez v. Moran*, 509 U.S. 389, 396-97 (1993); *Dusky v. United States*, 362 U.S. 402, 402 (1960); *Riker v. State*, 111 Nev. 1316, 1325, 905 P.2d 706, 711 (1995); *Melchor-Gloria v. State*, 99 Nev. 174, 180, 660 P.2d 109, 113 (1983). Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>3</sup>

  
\_\_\_\_\_, C.J.  
Pickering

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Cherry

<sup>3</sup>We 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. Kathleen E. Delaney, District Judge  
Dennis Savarese  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk