

IN THE SUPREME COURT OF THE STATE OF NEVADA

NEILL SAMUELL A/K/A FRED
WILSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 66370

FILED

DEC 11 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion to withdraw a guilty plea.¹ Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.


We conclude that the district court properly construed appellant's motion to be a post-conviction petition for a writ of habeas corpus. *See Harris v. State*, ___ Nev. ___, ___, 329 P.3d 619, 628 (2014) (holding that motions to withdraw should be construed as post-conviction petitions for writs of habeas corpus because a post-conviction petition for a writ of habeas corpus is the exclusive remedy to challenge the validity of a guilty plea after sentencing).

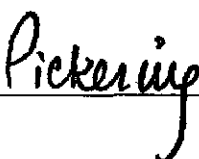
However, appellant conceded in his motion that he had expired his sentence and was no longer in custody pursuant to the judgment of conviction at issue in this case. A post-conviction petition for


¹This 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).

a writ of habeas corpus is not available to prisoners who have completed the sentence imposed by the judgment of conviction and are no longer in custody.² See Nev. Const. art. 6, § 6(1); NRS 34.724(1); *Jackson v. State*, 115 Nev. 21, 23, 973 P.2d 241, 242 (1999). Therefore, we conclude that the district court did not err in denying the motion, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Pickering


_____, J.
Saitta

cc: Hon. Michelle Leavitt, District Judge
Neill Samuell
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²It does not appear that appellant's claims fit within the scope of a petition for a writ of *coram nobis*. See *Trujillo v. State*, 129 Nev. ___, ___, 310 P.3d 594, 601 (2013).