

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SHANNON DEAN CARTER,
Appellant,
vs.
RENEE BAKER, WARDEN,
Respondent.

No. 67468

FILED

MAY 19 2015

TRAVIS J. LINNEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a post-sentencing motion to withdraw a guilty plea.¹ Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

Appellant Shannon Dean Carter filed his motion to withdraw a guilty plea on December 9, 2014. In the motion, Carter argued his plea agreement was breached, the district court applied the wrong remedy to

¹This appeal has been submitted for decision without oral argument, see NRAP 34(f)(3), and we conclude 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).

cure the breach, and the proper remedy was to allow him to withdraw his guilty plea.²

The Nevada Supreme Court has recently held “a post-conviction petition for a writ of habeas corpus provides the *exclusive remedy* for a challenge to the validity of the guilty plea made after sentencing for persons in custody on the conviction being challenged.” *Harris v. State*, 130 Nev. ___, ___, 329 P.3d 619, 628 (2014) (emphasis added). The court further stated,

In the case of future filings and for any currently pending post-sentence motion to withdraw a guilty plea, the district court *should* construe the motion to be a post-conviction petition for a writ of habeas corpus and require the defendant to cure any defects (filings not in compliance with the procedural requirements of NRS Chapter 34) within a reasonable time period selected by the district court.


Id. (emphasis added). NRS Chapter 34 bars petitions that are successive, abusive, and/or are filed more than one year after the issuance of the remittitur on direct appeal, unless the petitioner can demonstrate good cause and actual prejudice. *See* NRS 34.726(1); NRS 34.810(2), (3).


Here, the district court denied Carter’s motion to withdraw his guilty plea, but it gave him 30 days from the date of its order “to correct

²We note that Carter raised this same issue in a prior proceeding. *See Carter v. State*, Docket No. 45349 (Order of Affirmance, April 19, 2006).

the defects in his *Motion* in order to comply with the procedural requirements of NRS Chapter 34 and to file and serve his corrected *Petition*.” We conclude the district court substantially complied with the remedy in *Harris* for resolving future filings of post-sentencing motions to withdraw guilty pleas, and we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Janet J. Berry, District Judge
Shannon Dean Carter
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

³We have reviewed all documents that Carter has submitted in this matter, and we conclude no relief is warranted. To the extent Carter has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we decline to consider them in the first instance.