

IN THE SUPREME COURT OF THE STATE OF NEVADA

THOMPSON K. YAZZIE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 36178

FILED

APR 13 2004

ORDER DISMISSING APPEAL

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Rhoads*
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus.

On March 15, 2000, the district court convicted appellant, pursuant to an Alford plea,¹ of one count of voluntary manslaughter. Appellant filed a presentence motion to withdraw the guilty plea. The district court sentenced appellant to serve a term of twenty-four to ninety-six months in the Nevada State Prison.

Appellant filed a timely direct appeal from his judgment of conviction. In his appeal, appellant claimed that he should have been allowed to withdraw his plea prior to sentencing because his plea was involuntarily entered. This court determined that appellant's guilty plea

¹North Carolina v. Alford, 400 U.S. 25 (1970).

was involuntarily entered and concluded that appellant should be given an opportunity to withdraw his plea.²

On March 15, 2000, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On June 8, 2000, the district court denied appellant's petition. This appeal followed.

A post-conviction petition for a writ of habeas corpus that challenges a conviction arising from a guilty plea is limited to a claim that the guilty plea was not entered knowingly or voluntarily or that the plea was entered without the effective assistance of counsel.³ Thus, the only relief that can be afforded in these petitions is an opportunity to withdraw the guilty plea and to go to trial with the assistance of a different attorney. In light of this court's disposition on direct appeal, that the guilty plea was involuntarily entered and that appellant should be provided an opportunity to withdraw the plea, we conclude that appellant has already

²Yazzie v. State, Docket No. 35865 (Order of Reversal and Remand, March 30, 2004).

³See NRS 34.810(1)(a).

been afforded the only relief available. Accordingly, we conclude that the issues raised in appellant's petition have been rendered moot, and we

ORDER this appeal DISMISSED.⁴

Becker, J.
Becker

Agosti, J.
Agosti

Gibbons, J.
Gibbons

cc: Hon. Jackie Glass, District Judge
Thompson Keith Yazzie
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁴We 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.