

IN THE SUPREME COURT OF THE STATE OF NEVADA

SEAN D. WHITE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 32482

FILED

SEP 13 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
DEP. CLERK

SEAN DANDRE WHITE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 36198

ORDER OF AFFIRMANCE AND DISMISSING APPEAL

These are proper person appeals from orders of the district court denying appellant's post-conviction petition for a writ of habeas corpus and appellant's motion to compel.

On March 25, 1994, the district court convicted appellant, pursuant to a jury trial, of one count of murder with the use of a deadly weapon, one count of conspiracy to commit murder, one count of conspiracy to commit robbery and one count of attempted robbery with the use of a deadly weapon. The district court sentenced appellant to serve two consecutive terms of life in the Nevada State Prison without the possibility of parole and determinate consecutive terms totaling fifteen years. This court affirmed the judgment of the district court. *White v. State*, 112 Nev. 1261, 926 P.2d 291 (1996). The remittitur issued November 26, 1996.

On December 9, 1997, 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 March 11, 1998, the district court denied appellant's petition. Appellant's appeal is docketed in this court in Docket No. 32482.

On April 13, 2000, appellant filed a motion to compel in the district court. On May 5, 2000, the district court denied appellant's motion. Appellant's appeal is docketed in this court in Docket No. 36198.

Docket No. 32482

Appellant's petition was filed more than one year after the remittitur issued from appellant's direct appeal. Thus, appellant's petition was untimely filed. See NRS 34.726(1). Therefore, appellant's petition was procedurally barred absent a demonstration of cause for the delay and undue prejudice. See NRS 34.726(1). Appellant did not attempt to demonstrate cause for the delay or undue prejudice. Thus, we conclude the district court did not err in denying his petition.

Docket No. 36198

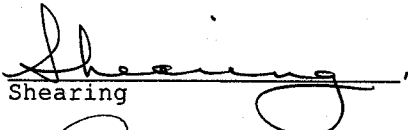
In his motion to compel, appellant requested the district court order counsel to abide by a previous order to transfer all documents and files to appellant. Our review of this appeal reveals a jurisdictional defect. The right to appeal is statutory; where no statute or court rule provides for an appeal, no right to appeal exists. See Castillo v. State, 106 Nev. 349, 792 P.2d 1133 (1990). No statute or court rule provides for an appeal from an order of the district court denying a motion to compel transfer of documents and files. Further, we note that

our review of the record on appeal does not indicate that the district court ever entered an order granting a motion for production of documents and files pursuant to NRS 7.055. Therefore, we lack jurisdiction to consider this appeal.

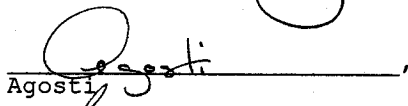
Conclusion

Having reviewed the records on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975), cert. denied, 423 U.S. 1077 (1976). Accordingly, we affirm the order of the district court in Docket No. 32482 and dismiss the appeal in Docket No. 36198.

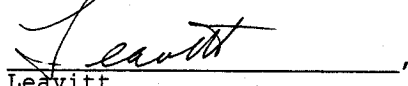
It is so ORDERED.¹



Shearing J.



Agosti J.



Leavitt J.

cc: Hon. Kathy A. Hardcastle, District Judge
Hon. Michael L. Douglas, District Judge
Attorney General
Clark County District Attorney
Sean D. White
Clark County Clerk

¹We have considered all proper person documents filed or received in these matters, and we conclude that the relief requested is not warranted.