

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GABRIEL STEVEN DEVALLE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 68021

FILED

OCT 20 2015

TRACIE K. ENDERMAN
CLERK OF SUPREME COURT
BY *J. Miley*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

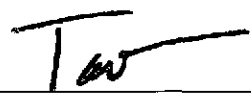
On December 11, 2014, appellant Gabriel Devalle filed a timely post-conviction petition, a federal post-conviction petition, and a motion to appoint counsel. Devalle did not raise any claims in his petitions. Having reviewed the record on appeal, we conclude that the district court did not err by denying the petitions, NRS 34.735; NRS 34.770(2); *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984) (claims must be supported by specific allegations that are not belied

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude the record is sufficient for our review and briefing is unwarranted. See *Luckett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

by the record, and if true, would entitle the petitioner to relief), or by denying the motion to appoint counsel, NRS 34.750(1). Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Stefany Miley, District Judge
Gabriel Steven Devalle
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

²In his notice of appeal filed on June 8, 2015, Devalle indicates that he is also appealing from the denial of his second post-conviction petition for a writ of habeas corpus that was filed on April 21, 2015. We note, however, that at the time he filed his notice of appeal, the district court had not yet resolved that petition. Accordingly, Devalle's attempt to appeal from the denial of the April 21, 2015, petition is premature and we lack jurisdiction. If the district court denies the April 21, 2015, petition, Devalle may appeal the written order denying that petition. NRS 34.575. We express no opinion as to whether any subsequent appeal would be timely. *See id.*