

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOSHUA BRODSKY,
Appellant,
vs.
ISIDRO BACA, WARDEN,
Respondent.

No. 70597

FILED

DEC 28 2016

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Appellant Joshua Brodsky appeals from an order of the district court denying his March 31, 2016, petition for a writ of habeas corpus.¹ First Judicial District Court, Carson City; James E. Wilson, Judge.

In his petition, Brodsky asserted the respondent violated NRS 178.620, the statute containing the agreement on detainers, by failing to ensure he received proper notice regarding warrants for outstanding cases in Clark County and in Illinois. The respondent asserted there were no detainers concerning Brodsky and that the hold the Nevada Department of Corrections (NDOC) placed upon Brodsky concerning those warrants did not amount to a detainer under Nevada law. The district court concluded Brodsky was not entitled to relief and denied the petition.


Brodsky argues the district court erred in concluding a hold stemming from the warrants is not equivalent to a detainer and asserts he is entitled to relief because the notice he received regarding the warrants violated NRS 178.620. “[A] detainer must be a written request filed by a

¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

criminal justice agency with the institution in which a prisoner is incarcerated, asking that the prisoner be held for the agency, or that the agency be advised when the prisoner's release is imminent." *Theis v. State*, 117 Nev. 744, 753, 30 P.3d 1140, 1145 (2001). A review of the record demonstrates the district court correctly concluded the NDOC has not received a written request from the agencies pursuing the outstanding warrants asking that Brodsky be held or requesting that those agencies be advised when Brodsky's release is imminent. Therefore, Brodsky is not entitled to relief due to application of the detainer process contained within NRS 178.620.² Accordingly, the district court did not err in denying the petition and we

ORDER the judgment of the district court AFFIRMED.³


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

²In light of our conclusion that Brodsky's claim lacks merit, we also conclude Brodsky is not entitled to any additional credits against his sentence.

³We note the district court also denied relief because it concluded this claim was not within the scope of a postconviction petition for a writ of habeas corpus. However, Brodsky did not file a postconviction petition for a writ of habeas corpus; rather, he properly filed a petition for a writ of habeas corpus pursuant to NRS 34.360, alleging he was unlawfully restrained of his liberty. Nevertheless, because the district court correctly denied relief, we affirm. *Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970).

cc: Hon. James E. Wilson, District Judge
Joshua Brodsky
Attorney General/Carson City
Carson City District Attorney
Carson City Clerk