

IN THE SUPREME COURT OF THE STATE OF NEVADA

JESSE WILSON,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 36580

FILED

JAN 22 2002

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

ORDER OF AFFIRMANCE

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

On February 23, 2000, appellant filed a proper person petition for a writ of habeas corpus in the district court. The State opposed the petition. On July 21, 2000, the district court denied appellant's petition. This appeal followed.

Appellant appeared to raise the following claims challenging the revocation of his parole on May 5, 1998: (1) that he received ineffective assistance of counsel at his parole revocation hearing; (2) that appellant's Alford plea¹ (i.e., to the charges constituting his parole violation) was the product of "ignorance [and] trickery;" (3) that the district court abused its discretion by "not allowing [appellant] to proceed to trial on the [alleged parole violation] before his revocation hearing;" and

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

(4) that he was "duped" into signing a waiver of board appearance prior to his having been appointed counsel.

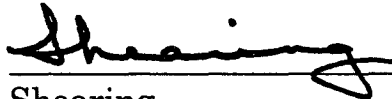
In denying the petition, the district court concluded that appellant's petition was time barred pursuant to NRS 34.726. First, we find that the district court erroneously applied NRS 34.726 to appellant's petition. NRS 34.726(1) provides, in pertinent part, that "a petition that challenges the validity of a judgment or sentence must be filed within 1 year after entry of the judgment of conviction." Appellant, in challenging his parole revocation hearing, did not challenge the validity of his judgment or sentence. Thus, NRS 34.726, by its own terms, did not apply to the instant petition and render it procedurally barred.


Based upon our review of the record on appeal, however, we conclude that the district court ultimately reached the correct result in denying this claim.² Appellant incorrectly filed his petition in the Eighth Judicial District Court, the district court in which he suffered the original conviction. Pursuant to NRS 34.738(1) a petition challenging anything other than "the validity of a conviction or a sentence . . . must be filed with the clerk of the district court for the county in which the petitioner is incarcerated." Appellant was incarcerated in Ely State Prison following revocation of his parole. Thus, appellant should have filed his petition in the Seventh Judicial District Court because that is the district court for the county in which he was imprisoned.


²See generally Kraemer v. Kraemer, 79 Nev. 287, 291, 382 P.2d 394, 396 (1963) (stating that a correct result will not be reversed simply because it is based on the wrong reason).

Having reviewed the record 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.³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁴


_____, J.
Shearing


_____, J.
Rose


_____, J.
Becker

cc: Hon. Mark W. Gibbons, District Judge
Attorney General/Carson City
Clark County District Attorney
Jesse Wilson
Clark County Clerk

³See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁴We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.