

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RICHARD ALLEN LANCASTER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73879

FILED

APR 11 2018

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

ORDER OF AFFIRMANCE

Richard Allen Lancaster appeals from a district court order denying the postconviction petition for a writ of habeas corpus he filed on February 14, 2017; the motion to modify sentence he filed on July 11, 2017; and the motion for appointment of counsel he filed on July 11, 2017.¹ Second Judicial District Court, Washoe County; Barry L. Breslow, Judge.

First, Lancaster claims the Second Judicial District Court lacked jurisdiction to consider his petition for a writ of habeas corpus “because [he] was not challenging the validity of his judgment of conviction or sentence, but was challenging the jurisdiction of the sentencing court to enter any order of confinement against him at all,” and therefore his petition should have been considered by the district court in the county

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


where he is incarcerated. However, we conclude the Eleventh Judicial District Court properly determined Lancaster's petition challenged the validity of his judgment of conviction or sentence and did not err by transferring the petition to the district court in the county where Lancaster was convicted. See NRS 34.724(1), (2)(b); NRS 34.738(1).


Second, Lancaster claims the district court erred by denying his motion to modify sentence because, contrary to the district court's ruling, his arguments for modification were not raised in his previous motions. However, we conclude the district court reached the right result in denying Lancaster's motion because nothing in the record on appeal suggests the district court relied on materially untrue assumptions about Lancaster's criminal record when it sentenced him. See *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996); *State v. Eighth Judicial Dist. Court*, 100 Nev. 90, 96-97, 677 P.2d 1044, 1048 (1984); *Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970).

Third, Lancaster claims the district court erred by denying his motion to appoint counsel because he needed professional, legal representation to investigate his case. "Under NRS 34.750(1), the district court has discretion to appoint counsel to represent a petitioner who has filed a postconviction petition for a writ of habeas corpus if (1) the petitioner is in indigent and (2) the petition is not summarily dismissed." *Renteria-Novoa v. State*, 133 Nev. ___, ___, 391 P.3d 760, 760-61 (2017). We conclude

the district court did not abuse its discretion by denying Lancaster's motion to appoint counsel after it summarily dismissed his procedurally-barred habeas petition.

Having concluded Lancaster is not entitled to relief, we
ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Barry L. Breslow, District Judge
Richard Allen Lancaster
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

²We have reviewed all documents Lancaster has filed in this matter, and we conclude no relief based upon those submissions is warranted. To the extent Lancaster has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we decline to consider them in the first instance.