

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRANT HONKANEN,

No. 36676

Appellant,

vs.

HON. MAX BUNCH, JUSTICE OF THE  
PEACE, HON. JAMES ENEARL, JUSTICE  
OF THE PEACE, RONALD PIERINI,  
SHERIFF AND DOUGLAS COUNTY DISTRICT  
ATTORNEY,

Respondents.

**FILED**

NOV 17 2000

*[Signature]*  
CLERK OF SUPREME COURT  
DEPUTY CLERK

ORDER OF AFFIRMANCE

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

On August 26, 1999, the justice court convicted appellant, pursuant to a no contest plea, of one count of disorderly conduct, a misdemeanor, in violation of DCC 9.24.030. The district court ordered appellant to perform 80 hours of community service by November 5, 1999, and to pay \$850 in restitution on or before May 5, 2000.

On June 22, 2000, 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 August 16, 2000, the district court dismissed appellant's petition. This appeal followed.

NRS 34.724(1) provides, in pertinent part:

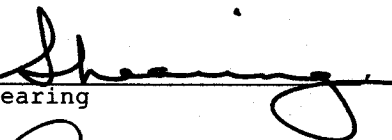
Any person convicted of a crime and under sentence of death or imprisonment who claims that the conviction was obtained, or that the sentence was imposed, in violation of the Constitution of the United States or the constitution or laws of this state . . . may, without paying a filing fee, file a post-conviction petition for a writ of habeas corpus to obtain relief from the conviction or sentence . . . .

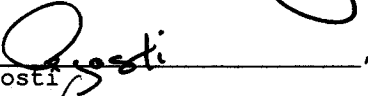
(Emphasis added.) Although appellant challenged the validity of his misdemeanor conviction for disorderly conduct, appellant was not under a sentence of imprisonment for his misdemeanor


conviction for disorderly conduct. Thus, under the facts in this case, a post-conviction petition for a writ of habeas corpus pursuant to NRS 34.720 to 34.830 was not available to appellant to challenge the validity of his misdemeanor conviction for disorderly conduct. Therefore, we conclude that the district court did not err in dismissing appellant's petition.<sup>1</sup>

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. 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.

It is so ORDERED.

  
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Shearing J.

  
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Agosti J.

  
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Leavitt J.

cc: Hon. Michael P. Gibbons, District Judge  
Douglas County District Attorney  
Brant Honkanen  
Douglas County Clerk

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<sup>1</sup>We note that in his petition appellant argued that his "liberty is presently restrained by a Judgment of Conviction, Court Orders and administrative settings compelling appearances, future promise of criminal contempt of court, jail time, and extraction of money." Appellant appeared to argue that his failure to pay the restitution as ordered by the justice court resulted in his incarceration for contempt of court. Appellant did not indicate that he was incarcerated at the time he filed his petition and appellant did not provide any argument that incarceration was improper. Thus, we conclude that the district court did not err in concluding that "[a]ny current or future contempt is a separate matter not before [the] court."