

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JOEL BURKETT,
Appellant,
vs.
TIMOTHY FILSON, WARDEN,
Respondent.

No. 75767

FILED

OCT 24 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Joel Burkett appeals from an order of the district court denying a petition for a writ of habeas corpus filed on November 20, 2017.¹ Seventh Judicial District Court, White Pine County; Gary Fairman, Judge.

Burkett claimed his continued incarceration violated the Eighth Amendment's prohibition against cruel and unusual punishment because his years in solitary confinement caused a mental disorder, which was then used to classify Burkett as a high risk to reoffend, thereby ensuring he would never be paroled. A person "may prosecute a writ of habeas corpus to inquire into the cause of [his] imprisonment or restraint." NRS 34.360. The cause of Burkett's imprisonment, as reflected in his petition and the record before this court, is a February 28, 1994, amended judgment of conviction for robbery with the use of a deadly weapon, first-degree kidnapping with the use of a deadly weapon, and two counts of sexual assault. Accordingly, Burkett is not entitled to relief under the habeas corpus provisions of NRS 34.360 through NRS 34.680.


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


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Burkett argues on appeal that the district court erred by construing his petition as a postconviction petition for a writ of habeas corpus and by denying his request for counsel. Although the title of Burkett's petition indicated he was seeking "postconviction" relief, he repeatedly and consistently sought relief only pursuant to NRS 34.500(2). Assuming, without deciding, that the district court erred by construing Burkett's pleading as a postconviction petition, we nevertheless affirm the denial of the petition for the reasons stated above. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) (holding a correct result will not be reversed simply because it is based on the wrong reason). And as Burkett has insisted he was not seeking postconviction relief, we conclude the district court did not err by denying his request pursuant to NRS 34.750 for the appointment of postconviction counsel. For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Gary Fairman, District Judge
Joel Burkett
Attorney General/Carson City
Attorney General/Ely
White Pine County Clerk