

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SHANE CHRISTOPHER CURRY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73898

FILED

SEP 26 2018

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

ORDER OF AFFIRMANCE

Shane Christopher Curry appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on March 2, 2016, and supplemental petition filed on October 14, 2016.¹ Fourth Judicial District Court, Elko County; Nancy L. Porter, Judge.

Curry first challenges the validity of the Nevada Revised Statutes. Such a claim is outside the scope of claims permissible in a postconviction petition for a writ of habeas corpus arising out of a guilty plea. *See* NRS 34.810(1)(a). We therefore conclude the district court did not err by denying this claim.²

Curry next contends the district court erred by denying his claim that trial counsel was ineffective for failing to challenge the validity

¹The district court's order indicates Curry filed several additional supporting documents, but they are not included in the record for this court's review.

²The district court improperly reached the merits of this claim. We nevertheless affirm the district court's decision for the reason 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).

of the Nevada Revised Statutes. To demonstrate ineffective assistance of counsel, a petitioner must show counsel's performance was deficient in that it fell below an objective standard of reasonableness and prejudice resulted in that there was a reasonable probability of a different outcome absent counsel's errors. *Strickland v. Washington*, 466 U.S. 668, 687-88 (1984); *Warden v. Lyons*, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984) (adopting the test in *Strickland*). Both components of the inquiry must be shown. *Strickland*, 466 U.S. at 697. Curry fails to allege or demonstrate that counsel was objectively unreasonable in not challenging the validity of the Nevada Revised Statutes. We therefore conclude the district court did not err by denying this claim.

Curry next argues the district court's order does not comply with the specificity requirements of NRS 34.830. The order contains sufficiently specific findings to allow review by this court. We therefore conclude Curry is not entitled to relief on this claim.


Curry next argues the district court failed to expeditiously examine his petition because the district court's order denying the petition was filed five months after his request for review was submitted. Curry has not demonstrated that five months is an inordinate delay. Moreover, because the district court did decide Curry's petition, his claim as to alleged untimeliness is moot. We therefore conclude Curry is not entitled to relief on this claim.

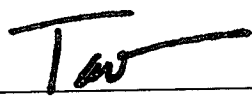
Finally, Curry appears to argue the district court erred by not ordering an answer. The district court is not necessarily required to order an answer. See NRS 34.745(4) (allowing courts to summarily dismiss petitions that are plainly lacking merit). Further, Curry has not indicated what additional information he would have presented to the court had he


been offered an opportunity to reply if the State had been ordered to answer.
We therefore conclude Curry is not entitled to relief on this claim.

For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Nancy L. Porter, District Judge
Gary D. Woodbury
Attorney General/Carson City
Elko County District Attorney
Elko County Clerk