

IN THE SUPREME COURT OF THE STATE OF NEVADA

LANDIS DOMINO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 37112

FILED

MAR 27 2002

JANE F. M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

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

On June 29, 2000, the district court convicted appellant, pursuant to a guilty plea, of unlawful sale of a controlled substance. The district court sentenced appellant to serve a minimum term of sixteen months to a maximum term of seventy-two months in the Nevada State Prison. Appellant did not file a direct appeal.

On October 19, 2000, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. 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 November 1, 2000, the district court denied appellant's petition. This appeal followed.

In his petition, appellant contended that "[t]he controlled substance was not a positive test. The evidence was not a controlled substance."

Our review of the record on appeal reveals that the district court did not err in denying this claim. Appellant's claim fell outside the narrow scope of claims permitted in a habeas corpus petition challenging a

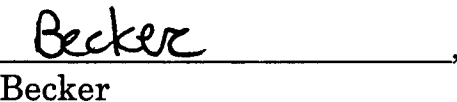
conviction and sentence based on a guilty plea.¹ Moreover, appellant waived this claim by failing to raise it in a direct appeal and failing to demonstrate good cause and prejudice for his failure to do so.²

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. Brent T. Adams, District Judge
Attorney General/Carson City
Washoe County District Attorney
Landis Domino
Washoe District Court Clerk

¹See NRS 34.810(1)(a).

²See Franklin v. State, 110 Nev. 750, 877 P.2d 1058 (1994), overruled on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999).

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.