

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMES CLARK WILLIAMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 69947

JAMES CLARK WILLIAMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 70635 ✓

FILED

APR 19 2017

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

ORDER OF AFFIRMANCE

In Docket No. 69947, appellant James Williams appeals from an order of the district court denying a petition for a writ of coram nobis filed on November 18, 2015, and a motion for new trial filed on January 21, 2016. In Docket No. 70635, Williams appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on February 23, 2016.¹ Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

Docket No. 69947

Williams argues the district court erred by denying his petition for a writ of coram nobis. In his petition, Williams raised

¹These appeals have been submitted for decision without oral argument. NRAP 34(f)(3).

numerous ineffective-assistance-of-counsel claims and he claimed he was actually innocent based on the evidence presented at trial.

The Nevada Supreme Court has explained that, in Nevada state courts, “the writ of coram nobis may be used to address errors of fact outside the record that affect the validity and regularity of the decision itself and would have precluded the judgment from being rendered.” *Trujillo v. State*, 129 Nev. 706, 717, 310 P.3d 594, 601 (2013). “[A] claim of ineffective assistance of counsel involves legal error,” and therefore, falls outside the limited scope of a petition for a writ of coram nobis. *Id.* at 719, 310 P.3d at 602.

Williams’ claims of ineffective assistance of counsel involve legal errors, not errors of fact outside the record, and are accordingly not within the scope of a petition for a writ of coram nobis. Further, his claim of actual innocence was based on facts contained in the record, and therefore, was not within the scope of a petition for a writ of coram nobis. Accordingly, the district court did not err in denying the petition without conducting an evidentiary hearing.

In his motion for new trial, Williams argued he was entitled to a new trial because he had newly discovered evidence he did not strangle the victim. Williams provided an affidavit from a neighbor who stated she strangled the victim at the victim’s request during sex. We conclude Williams failed to demonstrate the district court abused its discretion by denying the motion for new trial. Williams failed to demonstrate this witness was newly discovered and unavailable to be discovered and produced during trial with the exercise of reasonable diligence. See *Sanborn v. State*, 107 Nev. 399, 406, 812 P.2d 1279, 1284 (1991).

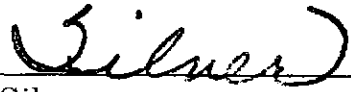
Therefore, the district court did not abuse its discretion by denying the motion.

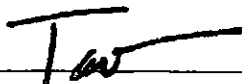
Docket No. 70635

The district court denied Williams' postconviction petition for a writ of habeas corpus because Williams was not in custody when he filed his petition. We conclude the district court correctly denied the petition. Williams was discharged from parole on August 10, 2015. He filed his postconviction petition on February 3, 2016.

A postconviction petition for a writ of habeas corpus is not available to those who have completed the sentence imposed by the judgment of conviction and are no longer in custody. *See Nev. Const. art. 6, § 6(1); NRS 34.724(1); Jackson v. State*, 115 Nev. 21, 23, 973 P.2d 241, 242 (1999). Because Williams was not in custody pursuant to a judgment of conviction for this matter when he filed the petition, the district court properly denied the petition. Accordingly, we

ORDER the judgments of the district court AFFIRMED.²


Silver, C.J.


Tao, J.


Gibbons, J.

²Williams has requested this court to join these consolidated cases with Docket No. 65761 and to treat a document filed in that appeal as a habeas petition. The appeal in Docket No. 65761 has been resolved and the remittitur issued on August 25, 2015. *See Williams v. State*, Docket No. 65761 (Order of Affirmance, July 31, 2015). Therefore, we deny Williams' requests.

cc: Hon. Valerie Adair, District Judge
James Clark Williams
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk