


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANTHONY JOHN BURRIOLA,
Appellant,
vs.
TIMOTHY FILSON, WARDEN; AND
THE STATE OF NEVADA,
Respondents.

No. 77335-COA

FILED

SEP 30 2019

ELIZABETH J. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Anthony John Burriola appeals from a district court order denying a postconviction petition for a writ of habeas corpus. Seventh Judicial District Court, White Pine County; Gary Fairman, Judge.

Burriola filed his petition on December 15, 2017, in the Eighth Judicial District Court, which determined Burriola was challenging the computation of time served and then transferred the petition to the Seventh Judicial District Court to correspond with where Burriola was incarcerated. The petition was filed in the Seventh Judicial District Court on July 2, 2018.

Burriola argues the district court erred by denying his challenge to the transfer of his petition to the Seventh Judicial District Court. In his petition, Burriola indicated he was incarcerated at Ely State Prison, and he claimed he was challenging the computation of time served. Such a petition is properly filed in the district court for the county in which the petitioner is incarcerated. *See* NRS 34.738. The Seventh Judicial District Court is the proper venue for a person incarcerated in Ely State

Prison. We therefore conclude the district court did not err by denying this claim.


Burriola also argues the district court erred by denying his petition. Below, Burriola challenged the validity of information included in a document utilized by the Board of Parole Commissioners (Board) to decide whether to grant Burriola parole. A postconviction petition for a writ of habeas corpus may only be used to challenge a judgment of conviction, a sentence, or the computation of time served pursuant to a judgment of conviction. NRS 34.720. Although the Board's decision affects how much of Burriola's sentence must be served in prison, it does not affect the computation of Burriola's time served. Accordingly, Burriola's claim was outside the scope of claims allowed in a postconviction petition for a writ of habeas corpus. *See also Anselmo v. Bisbee*, 133 Nev. 317, 319, 396 P.3d 848, 850 (2017) (stating there was no applicable statutory vehicle through which to challenge the Board's actions).

Burriola also appeared to challenge the authority of the district court judge or the deputy attorney general assigned to his case as well as the 2011 denial of his parole. Such claims were also outside the scope of a postconviction petition for a writ of habeas corpus. *See* NRS 34.720. Because Burriola's claims fell outside the scope of those allowed in a postconviction petition for a writ of habeas corpus, we conclude the district court did not err by denying the petition.

Finally, Burriola suggests the district court delegated adjudication of his case to the State. Burriola fails to demonstrate the

district court delegated its authority to the State. We therefore conclude Burriola is not entitled to relief on this claim. For the foregoing reasons, we ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Gary Fairman, District Judge
Anthony John Burriola
Attorney General/Ely
White Pine County Clerk

¹Burriola claims the State failed to acknowledge his motion to voluntarily withdraw his petition. In not granting the motion, the district court implicitly denied it. Burriola neither claims nor demonstrates that the State's lack of response to his motion resulted in district court error. We therefore conclude Burriola is not entitled to relief on this claim.