

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRIAN KERRY O'KEEFE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 78550-COA

FILED

MAR 12 2020

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


ORDER OF AFFIRMANCE

Brian Kerry O'Keefe appeals from an order of the district court denying a petition for a writ of coram nobis. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

In his December 17, 2018, petition, O'Keefe claimed the district court lacked jurisdiction to convict him because the State failed to prove the constitutional validity of his prior convictions. O'Keefe failed to demonstrate that he was entitled to relief. O'Keefe's claim could have been raised earlier and O'Keefe did not meet his burden to demonstrate the claim could not have been raised while he was in custody. *See Trujillo v. State*, 129 Nev. 706, 717-18, 310 P.3d 594, 601-02 (2013). In addition, O'Keefe's claim involved legal and not factual errors. *See id.* at 717, 310 P.3d at 601. Therefore, O'Keefe's claim was not properly raised in a petition for a writ of coram nobis. Accordingly, the district court did not err by denying the petition, and we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Tierra Danielle Jones, District Judge
Brian Kerry O'Keefe
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹We have reviewed all documents O'Keefe has filed in this matter, and we conclude no relief based upon those submissions is warranted. To the extent O'Keefe has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we decline to consider them in the first instance.