

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARVIN MORAN,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 80328-COA

**FILED**

OCT 28 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *E. A. Brown*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Marvin Moran appeals from a district court order denying a postconviction petition for a writ of habeas corpus filed on August 8, 2018. Eighth Judicial District Court, Clark County; Cristina D. Silva, Judge.

First, Moran claims the district court erred by denying his petition because the State's case against him never should have moved forward. In his petition, he claimed (1) his Fifth Amendment rights were violated because the State's request to continue the trial was not accompanied by an affidavit, (2) his Fourteenth Amendment rights were violated because the district court did not have the authority to grant a continuance, and (3) his Eighth Amendment rights were violated because he is serving life in prison for a crime he did not commit. The district court determined that Moran's claims could have been raised on direct appeal and therefore they were not properly raised in his postconviction habeas petition. We conclude the district court did not err by denying his postconviction habeas petition without an evidentiary hearing. See NRS 34.770(2); NRS 34.810(1)(b)(2).

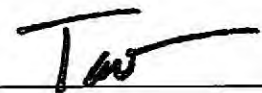
Second, Moran claims the district court erred by denying his motion for postconviction counsel. The Nevada Supreme Court has recently

“stress[ed] the decision to appoint counsel under NRS 34.750(1) is not necessarily dependent upon whether a pro se petitioner has raised claims that clearly have merit or would warrant an evidentiary hearing[;]” instead, this decision turns on whether the appointment of counsel is essential to ensure the petitioner has “a meaningful opportunity to present his or her claims to the district court.” *Renteria-Novoa v. State*, 133 Nev. 75, 77-78, 391 P.3d 760, 762 (2017). Here, the record demonstrates Moran had a meaningful opportunity to present his claims to the district court and we conclude the district court did not abuse its discretion by denying his petition without appointing postconviction counsel.

Third, Moran claims that he was deprived of effective assistance of counsel. However, he did not raise this claim in his habeas petition and we decline to consider it for the first time on appeal. *See Davis v. State*, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991), *overruled on other grounds by Means v. State*, 120 Nev. 1001, 1012-13, 103 P.3d 25, 33 (2004).

Having concluded Moran is not entitled to relief, we  
ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Cristina D. Silva, District Judge  
Marvin Moran  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk