


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RODERICK STEPHEN SKINNER,
Appellant,
vs.
ISIDRO BACA, WARDEN OF NNCC,
Respondent.

No. 79981-COA

FILED

FEB 08 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Roderick Stephen Skinner appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus originally filed on July 13, 2016, and a supplemental petition filed on January 12, 2018.¹ Second Judicial District Court, Washoe County; Barry L. Breslow, Judge.

Skinner argues the district court erred by denying his claim that his due process rights were violated when the State destroyed all evidence of his guilt after his conviction was final but before his postconviction petition was litigated. In his supplemental petition below, he argued the State should have retained this evidence and he was prejudiced by the State's failure because he was unable to litigate one of the grounds raised in his petition.² Arguing that postconviction proceedings are "a continuation of the defense," Skinner relied on cases that held a

¹Skinner's petition did not include a verification statement. The district court dismissed the petition without prejudice to allow Skinner to cure the defect. Skinner refiled his petition with verification on October 7, 2016.

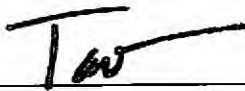
²Skinner's initial petition listed 14 grounds for relief, and his supplement raised the instant due-process claim and one other ground for relief.

defendant's due process rights may be violated where evidence was lost, not preserved, or not collected by the State *prior to trial*. See *Arizona v. Youngblood*, 488 U.S. 51 (1988); *Crockett v. State*, 95 Nev. 859, 603 P.2d 1078 (1979); *Howard v. State*, 95 Nev. 580, 600 P.2d 214 (1979); *Higgs v. State*, 126 Nev. 1, 222 P.3d 648 (2010).

Postconviction proceedings are not the same as direct appeals and are not part of the criminal proceedings. See *Pennsylvania v. Finley*, 481 U.S. 551, 556-57 (1987) ("Postconviction relief is even further removed from the criminal trial than is discretionary direct review. It is not part of the criminal proceeding itself, and it is in fact considered to be civil in nature."). And convicted persons do not have the same due process rights as those who are presumed innocent. See *District Attorney's Office for the Third Judicial Dist. v. Osborne*, 557 U.S. 52, 68-69 (2009). Skinner's reliance on cases addressing only the pretrial destruction of evidence did not demonstrate his due process rights were violated. Accordingly, we cannot conclude the district court erred by denying Skinner's due process argument.

Skinner does not challenge on appeal the district court's conclusions that his conviction should not be reversed. Accordingly, we
ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Barry L. Breslow, District Judge
Edward T. Reed
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk