

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRIAN DEFOREST,  
Appellant,  
vs.  
THE STATE OF NEVADA, STOREY  
COUNTY,  
Respondent.

No. 81890-COA

FILED

JUN 07 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

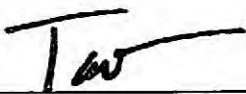
Brian DeForest appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus. First Judicial District Court, Storey County; James Todd Russell, Judge.

In his July 16, 2020, petition, DeForest challenged his conviction of misdemeanor dog at large. The justice court ordered DeForest to pay a fine, fees, and restitution. However, the justice court did not sentence DeForest to serve a term in jail, prison, or another place of confinement. Because DeForest was not in custody when he filed his petition, a postconviction petition for a writ of habeas corpus was not an available remedy. *See Nev. Const. art. 6, § 6(1)* (setting forth a custody requirement for habeas corpus); *NRS 34.724(1)* (providing that a habeas petition is available to a person under a sentence of imprisonment or death); *Coleman v. State*, 130 Nev. 190, 193-94, 321 P.3d 863, 866 (2014) (“A sentence of imprisonment is one that requires a person to be placed in a prison or some other place of confinement.”); *Trujillo v. State*, 129 Nev. 706, 716, 310 P.3d 594, 600 (2013) (“For a person who is not in custody, Nevada’s post-conviction habeas corpus scheme does not apply.”). Therefore, we

conclude the district court did not err by denying DeForest's petition.  
Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. James Todd Russell, District Judge  
Brian DeForest  
Attorney General/Carson City  
Storey County District Attorney  
Storey County Clerk