

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RODOLFO HERRERA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82704-COA

FILED

AUG 17 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Rodolfo Herrera appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus, or in the alternative, petition for a writ of coram nobis¹ filed on August 11, 2020, and an amended petition filed on August 17, 2020. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

In his petition, Herrera challenged the validity of his judgment of conviction, arguing that he should be able to withdraw his plea because he was not informed he would lose the right to bear arms based on his conviction. Herrera was convicted in 2016 and placed on probation not to exceed three years. The State claims Herrera was discharged from probation in 2018. Herrera does not challenge this assertion. Because Herrera discharged his sentence prior to filing the instant petition, the petition was not cognizable insofar as it was a postconviction petition for a

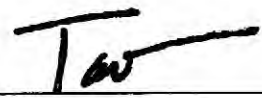
¹Herrera styled his petition, in the alternative, as a petition for a writ of coram vobis. Coram vobis is a counterpart to coram nobis and became more widely known as coram nobis in the United States. *See Trujillo v. State*, 129 Nev. 706, 710 & n.3, 310 P.3d 594, 601 & n.3 (2013). Therefore, insofar as Herrera's petition is for a writ of coram vobis, it is properly treated as a petition for a writ of coram nobis.

writ of habeas corpus. Nev. Const. art. 6, § 6(1); NRS 34.724(1); *Jackson v. State*, 115 Nev. 21, 23, 973 P.2d 241, 242 (1999).

Further, a petition for a writ of coram nobis is limited to “errors of fact outside the record that affect the validity and regularity of the decision itself.” *Trujillo*, 129 Nev. at 717, 310 P.3d at 601. A writ of coram nobis is limited to factual, not legal, errors. *Id.* Herrera’s claim that his guilty plea is invalid because he was not informed he would lose the right to bear arms is a legal claim, not a factual claim. Therefore, this claim was outside the scope of a petition for a writ of coram nobis. Thus, we conclude the district court did not err by denying Herrera’s petition, and we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

²Although the district court erred by considering the merits of the petition, we nevertheless affirm its denial for the reason discussed above. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) (holding that a correct result will not be reversed simply because it is based on the wrong reason).

cc: Hon. Jacqueline M. Bluth, District Judge
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