

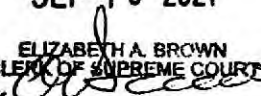
IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES THEODORE SHARKEY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 81476

FILED

SEP 16 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a pro se appeal from a district court order denying appellant's motion for a new trial.<sup>1</sup> Eighth Judicial District Court, Clark County; Michael Villani, Judge.

On March 16, 2020, appellant filed a motion for a new trial, a motion for discovery, and a motion for forensic evaluation of newly discovered evidence. Specifically, appellant complained that although he was given paper photographs of the victim's injuries, he was not given digital copies or an enlarged photograph of the victim's injuries that the State presented during the trial. The district court summarily denied the motions, noting that Sharkey had not presented any newly discovered.

Having reviewed the record, we conclude that the district court did not abuse its discretion in denying the motions. *See Sanborn v. State*, 107 Nev. 399, 406, 812 P.2d 1279, 1284 (1991) ("The grant or denial of a new trial on [the ground of newly discovered evidence] is within the trial court's discretion and will not be reversed on appeal absent its abuse."). Appellant did not present any newly discovered evidence, and thus, a motion for a new trial was properly denied. *See NRS 176.515(1)* (acknowledging a motion for

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<sup>1</sup>This appeal has been submitted for decision on the record without briefing or oral argument. NRAP 34(f)(3), (g); *see also* NRAP 31(d)(1); *Lockett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

new trial may be granted on basis of newly discovered evidence); *Sanborn*, 107 Nev. at 406, 812 P.2d at 1284 (setting forth requirements for a motion for a new trial based on newly discovered evidence). Further, to the extent that appellant sought a new trial on some other ground, the motion was filed too late. NRS 176.515(4). Appellant's motions for discovery and forensic review were properly denied as the motion for a new trial was frivolous, and appellant did not identify any statutory authority requiring discovery or forensic review of evidence in proceedings on a motion for a new trial. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

*Hardesty*, C.J.  
Hardesty

*Stiglich*, J.  
Stiglich

*Gibbons*, Sr.J.  
Gibbons

cc: Hon. Michael Villani, District Judge  
James Theodore Sharkey  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>2</sup>The Honorable Mark Gibbons, Senior Justice, participated in the decision of this matter under a general order of assignment.