

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAMARR ROWELL,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 37836

FILED

DEC 14 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Bloom*
CHIEF DEPUTY CLERK

LAMARR ROWELL,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

LAMARR ROWELL,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 37839

ORDER OF AFFIRMANCE

Docket No. 37836 is a proper person appeal from an order of the district court denying a motion for answer to question of law. Docket No. 37838 is a proper person appeal from an order of the district court denying a motion to set aside the guilty plea and judgment of conviction. Docket No. 37839 is a proper person appeal from an order of the district court denying a motion to vacate guilty plea and conviction. We elect to consolidate these appeals for disposition.¹

On September 9, 1999, the district court convicted appellant, pursuant to a guilty plea, of one count of burglary. The district court

¹See NRAP 3(b).

sentenced appellant to serve a maximum term of ninety-six months with a minimum parole eligibility of eighteen months in the Nevada State Prison. This court dismissed appellant's untimely direct appeal for lack of jurisdiction.²

On June 9, 2000, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. Appellant filed numerous documents in support of and to supplement his petition. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On January 23, 2001, the district court entered a written order denying "all of Petitioner's petitions and motions." Appellant appealed, and this court affirmed the district court's order.³

Docket No. 37836

On March 29, 2001, appellant filed a proper person document labeled "motion for an answer to the following question of law and; to vacate judgment of conviction as being defective; guilty plea as being defective and invalid; and sentence of imprisonment as being defective and invalid; and indictment as being defective and invalid" in the district court. On April 26, 2001, the district court denied the motion. This appeal followed.

We conclude that the district court did not err in denying appellant's motion. Although no specific statute or court rule permits an appeal from an order denying a motion with the label appellant attached to his motion, this court has construed appellant's appeal to be from an order denying a motion that is appealable in this court.⁴ To the extent that appellant's motion could be construed to be a motion to correct an illegal sentence or a motion to modify a sentence, the district court did not

²Rowell v. State, Docket No. 35959 (Order Dismissing Appeal, May 8, 2000).

³Rowell v. State, Docket No. 37283 (Order of Affirmance, July 9, 2001).

⁴See Edwards v. State, 112 Nev. 704, 918 P.2d 321 (1996) (recognizing an appeal from an order denying a motion to correct an illegal sentence); Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984) (recognizing an appeal from an order denying a post-conviction motion to withdraw a guilty plea); see also Castillo v. State, 106 Nev. 349, 792 P.2d 1133 (1990) (holding that where no statute or court rule provides for an appeal, no right to appeal exists).

err in denying the motion because it fell outside the very narrow scope of claims permitted in these motions.⁵ To the extent that appellant's motion could be construed to be a motion to withdraw a guilty plea, the district court did not err in denying the motion because appellant's challenge to the validity of his guilty plea has already been considered and rejected by this court. The doctrine of the law case prevents further relitigation of appellant's challenge to the validity of his guilty plea.⁶ Therefore, we affirm the order of the district court.

Docket No. 37838

On April 11, 2001, appellant filed a proper person motion to set aside guilty plea and judgment of conviction. On April 26, 2001, the district court denied appellant's motion. This appeal followed.

In his motion, appellant challenged the validity of his guilty plea and counsel's inaction regarding appeals and motions prior to entry of the guilty plea. Based upon our review of the record on appeal, we conclude that the district court did not err in denying appellant's motion. This court has already considered and rejected appellant's challenge to the validity of his guilty plea and counsel's alleged inaction regarding appeals and motions prior to entry of the guilty plea. The doctrine of the law of the case prevents further relitigation of these issues.⁷ Further, appellant cannot avoid this doctrine "by a more detailed and precisely focused argument subsequently made after reflection upon the previous proceedings."⁸ Therefore, we affirm the order of the district court.

Docket No. 37839

On April 18, 2001, appellant filed a proper person motion to vacate guilty plea and conviction in the district court. On May 7, 2001, the district court denied appellant's motion. This appeal followed.

In his motion, appellant challenged the validity of his guilty plea and counsel's performance prior to entry of his guilty plea. Appellant also appeared to claim that his constitutional rights were violated in the trial court proceedings. Based upon our review of the record on appeal, we conclude that the district court did not err in denying appellant's motion.

⁵See Edwards, 112 Nev. 704, 918 P.2d 321.

⁶See Hall v. State, 91 Nev. 314, 535 P.2d 797 (1975).

⁷See id.

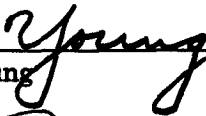
⁸See id. at 316, 535 P.2d at 799.


This court has already considered and rejected appellant's challenge to the validity of his guilty plea, counsel's performance prior to entry of the guilty plea, and the constitutionality of the trial court proceedings. The doctrine of the law of the case prevents further relitigation of these issues.⁹ Further, appellant cannot avoid this doctrine "by a more detailed and precisely focused argument subsequently made after reflection upon the previous proceedings."¹⁰ Therefore, we affirm the order of the district court.

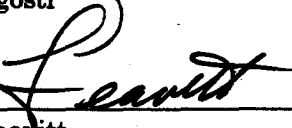
Conclusion

Having reviewed the records on appeal and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.¹¹ Accordingly, we

ORDER the judgments of the district court AFFIRMED.¹²


_____. J.
Young


_____. J.
Agosti


_____. J.
Leavitt

cc: Hon. Donald M. Mosley, District Judge
Attorney General/Carson City
Clark County District Attorney
Lamarr Rowell
Clark County Clerk

⁹See id. 91 Nev. 314, 535 P.2d 797.

¹⁰See id. at 316, 535 P.2d at 799.

¹¹See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975), cert. denied, 423 U.S. 1077 (1976).

¹²We have considered all proper person documents filed or received in these matters, and we conclude that the relief requested is not warranted.