

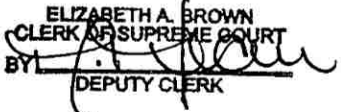
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JARVIS THOMAS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 85524-COA

FILED

APR 12 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Jarvis Thomas appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus¹ and later-filed supplements. Eighth Judicial District Court, Clark County; Elham Roohani, Judge.

Thomas argues that the district court erred by denying his April 5, 2022, petition. In his petition, Thomas challenged his conviction of gross misdemeanor preventing or dissuading a witness from testifying or producing evidence. The district court found that Thomas expired his sentence and was no longer in custody pursuant to that conviction when he filed his petition. The record supports the district court's findings.

Because Thomas was not in custody due to his conviction for preventing or dissuading a witness from testifying or producing evidence 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

¹Thomas filed a motion to withdraw guilty plea, and the district court construed it as a postconviction petition for a writ of habeas corpus in accordance with *Harris v. State*, 130 Nev. 435, 448-49, 329 P.3d 619, 628 (2014).

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 death or imprisonment); *Jackson v. State*, 115 Nev. 21, 23, 973 P.2d 241, 242 (1999) (concluding that a petitioner was not entitled to file a postconviction petition for a writ of habeas corpus when he was no longer incarcerated pursuant to the judgment of conviction contested). Therefore, we conclude the district court did not err by denying the petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Chief Judge, Eighth Judicial District Court
Eighth Judicial District Court, Dept. 11
Jarvis Thomas
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk