

IN THE SUPREME COURT OF THE STATE OF NEVADA

DWIGHT ANTHONY MONROE AND MICHAEL
JOHN STONE,

No. 38031

Appellants,

vs.

FRANKIE SUE DEL PAPA, ATTORNEY
GENERAL, THE STATE OF NEVADA,

Respondent.

FILED

AUG 08 2001

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

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order dismissing appellants' complaint for declaratory relief challenging the constitutionality of NRS 205.060, the statute defining and setting forth the penalty for the crime of burglary. We have reviewed the record, and we conclude that the district court did not err. Appellants' complaint essentially challenged their burglary convictions, and such a challenge should have been brought on direct appeal or in a post-conviction petition for a writ of habeas corpus under NRS chapter 34.¹ Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Young J.

Young
Leavitt J.

Leavitt
Becker J.

Becker

¹See NRS 34.724 (providing that, except for remedies incident to the trial court proceedings and a direct appeal, the post-conviction petition takes the place of all other remedies available for challenging the validity of the conviction); Franklin v. State, 110 Nev. 750, 877 P.2d 1058 (1994) (describing the types of challenges that may be raised on direct appeal or in post-conviction proceedings), disapproved on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999); Heck v. Humphrey, 512 U.S. 477, 487 (1994) (holding that a state prisoner's claim for damages under 42 U.S.C. § 1983 for unconstitutional conviction is not cognizable if judgment in favor of prisoner would necessarily imply the invalidity of his conviction, unless prisoner can demonstrate the conviction was already invalidated).

cc: Hon. Janet J. Berry, District Judge
Attorney General
Dwight Anthony Monroe
Michael John Stone
Washoe County Clerk