

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DONTAE EUGENE MATHIS, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 86513-COA

FILED

OCT 23 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *E. Brown*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Dontae Eugene Mathis, Jr., appeals from an order of the district court denying a postconviction petition for a writ of habeas corpus filed on January 23, 2023. Eighth Judicial District Court, Clark County; Monica Trujillo, Judge.


Mathis argues that the district court erred by denying his petition because his conviction is illegal.¹ Specifically, he claims his conviction is illegal because he pleaded guilty to a case that had previously been dismissed and because the arrest warrant was defective. These claims were not raised in Mathis's petition below. Therefore, we decline to consider these claims for the first time on appeal.² See *McNelson v. State*, 115 Nev. 396, 415-16, 990 P.2d 1263, 1275-76 (1999).

¹Mathis's contention on appeal that the district court's January 26, 2023, order concluded that his sentence was illegal is belied by the record. The district court's order merely sought a response to Mathis's petition from the State to help determine whether "[p]etitioner is illegally imprisoned and restrained of his/her liberty."

²We note that Mathis does not argue that the district court erred by denying the claims raised in his petition below.

Mathis also argues the district court judge should have recused herself because she is listed as a defendant in a federal complaint filed by Mathis. Mathis did not file a request for recusal in the district court below until after his petition had been denied, *see* NRS 1.235 (stating the procedure for disqualifying a district court judge based on actual or implied bias), and he fails to demonstrate the district court judge should have sua sponte recused herself, *see* NRS 1.230 (stating the grounds for disqualification of a district court judge); *cf. Jefferson v. State*, 133 Nev. 874, 878-79, 410 P.3d 1000, 1004 (Ct. App. 2017) (providing that a defendant's decision to file an action against counsel is not, alone, sufficient to require disqualification). Thus, Mathis fails to demonstrate he is entitled to relief on this claim.

Because Mathis fails to demonstrate he is entitled to relief, we ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Monica Trujillo, District Judge
Dontae Eugene Mathis, Jr.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk