

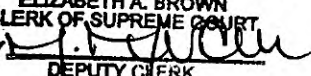
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FERRILL JOSEPH VOLPICELLI,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 87972-COA

FILED

OCT 21 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Ferrill Joseph Volpicelli appeals from a district court order dismissing his “independent civil action” seeking to vacate his judgment of conviction and habitual criminal sentencing pursuant to NRCP 60(b) and (d). Second Judicial District Court, Washoe County; Kathleen A. Sigurdson, Judge.

Volpicelli, an inmate, filed the underlying action alleging that his 2004 judgment of conviction for burglary and subsequent adjudication and sentencing as a habitual criminal should be vacated under NRCP 60(b) and (60)(d) based on jurisdictional infirmities that purportedly rendered his conviction and sentencing void. No answer to the complaint was filed. However, the district court subsequently entered an order finding, among other things, that Volpicelli’s jurisdictional contentions were not supported by proper legal authority or the facts of the case. As a result, the district court denied Volpicelli his requested relief, although the court did not dismiss the case. However, the court later entered a second order dismissing the action, noting that it previously denied the requested relief,


rendering Volpicelli's complaint moot, such that it could be "summarily dismissed." This appeal followed.

On appeal, Volpicelli largely repeats the arguments set forth in his complaint regarding the alleged jurisdictional issues with his 2004 conviction and sentencing. For the reasons set forth below, we affirm the district court's dismissal of Volpicelli's action, albeit for reasons other than those relied on by the district court. *See Saavedra-Sandoval v. Wal-Mart Stores, Inc.*, 126 Nev. 592, 599, 245 P.3d 1198, 1202 (2010) (recognizing that appellate courts may affirm a district court decision on different grounds than those provided by the district court).

In reviewing both Volpicelli's initial and amended complaints, it is apparent on the face of these filings that his claims challenge the validity of his judgment of conviction and the resulting sentence. And "[a] post-conviction petition for a writ of habeas corpus is the exclusive remedy for challenging the validity of a conviction or sentence aside from" certain instances not relevant here. *Harris v. State*, 130 Nev. 435, 437, 329 P.3d 619, 621 (2014) (emphasis omitted); *see also* NRS 34.724(2)(b) (stating that a postconviction petition for a writ of habeas corpus is the exclusive remedy with which to challenge the validity of a judgment of conviction). Because Volpicelli sought to challenge the validity of his judgment of conviction and sentencing via a civil action grounded in NRCP 60(b) and (d), rather than via a postconviction petition for a writ of habeas corpus, the dismissal of

Volpicelli's complaint was appropriate.¹ Accordingly, we affirm the district court's decision. *See Saavedra-Sandoval*, 126 Nev. at 599, 245 P.3d at 1202.

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Kathleen A. Sigurdson, District Judge
Ferrill Joseph Volpicelli
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

¹Insofar as Volpicelli raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.