


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RODERICK STEPHEN SKINNER,
Appellant,
vs.
WARDEN OLSEN; NNCC; NEVADA
ATTORNEY GENERAL; AND THE
STATE OF NEVADA,
Respondents.

No. 88296-COA

FILED

NOV 07 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Roderick Stephen Skinner appeals from a district court order denying a petition to establish factual innocence filed on November 3, 2022. Second Judicial District Court, Washoe County; Barry L. Breslow, Judge.

Skinner pleaded guilty to one count of promotion of a sexual performance of a minor, age 14 or older. In his petition, Skinner claimed he had newly discovered evidence that established his factual innocence. Specifically, Skinner alleged that former Washoe County Sheriff's Office Sergeant D. Carry, who investigated Skinner's case, was a bigamist who was married to two women at the same time, one of whom was a federal judge. Skinner alleged that, based on Carry's ability to fool "even the most astute people in society," Carry was "an accomplished fraudster" and that the newly discovered evidence called into question Carry's credibility because "similar dishonesty perpetrated by Carry may also have resulted in the courts being misled" in Skinner's case. Skinner contended that this evidence, paired with the "clearly exculpatory" evidence provided by a computer forensics expert, T. Loehrs, in support of Skinner's first

postconviction petition for a writ of habeas corpus, demonstrated he is factually innocent.¹

A person who has been convicted of a felony may petition the district court for a hearing to establish their factual innocence. NRS 34.960(1). The petition must contain supporting affidavits or other credible documents indicating that “[n]ewly discovered evidence exists . . . and, if credible, establishes a bona fide issue of factual innocence.” NRS 34.960(2)(a). The petition must also assert that “[n]either the petitioner nor the petitioner’s counsel knew of the newly discovered evidence at the time of trial or sentencing or in time to include the evidence in any previously filed post-trial motion or postconviction petition.” NRS 34.960(3)(a).

The district court found that the evidence Skinner identified related to Loehrs was not “new” and that the evidence Skinner identified related to Carry “had no discernable correlation” to Skinner’s case and thus did not establish Skinner’s factual innocence. These findings are supported by the record. The evidence related to Loehrs was offered in connection with Skinner’s postconviction habeas petition and thus is not newly discovered evidence. *See* NRS 34.930(1). And evidence related to Carry’s bigamy and

¹Skinner attached to his petition a 2021 newspaper article reporting that Carry had been arrested for seven felony counts including bigamy, burglary, and forgery. The article further reported that Carry had previously been the head of the Cyber Crimes Unit before being placed on administrative leave in March 2019 pending investigation and that he retired during the investigation. The article also reported that “Carry allegedly entered [a] courthouse to alter documents after it was discovered he was married to two women at once.” Skinner also attached to his petition a 2018 declaration from Loehrs describing her findings related to Carry’s investigation of computer equipment seized from Skinner’s residence. Loehrs also testified during the evidentiary hearing conducted on Skinner’s first habeas petition.

subsequent arrest, although potentially relevant for impeachment of his credibility, did not clearly establish that Skinner was factually innocent. *See* NRS 34.920 (defining factual innocence); *see also* NRS 34.960(2)(b)(2) (stating a petition must aver that the newly discovered evidence is not merely impeachment evidence). Therefore, we conclude the district court did not err by denying Skinner's petition, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Barry L. Breslow, District Judge
Roderick Stephen Skinner
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk