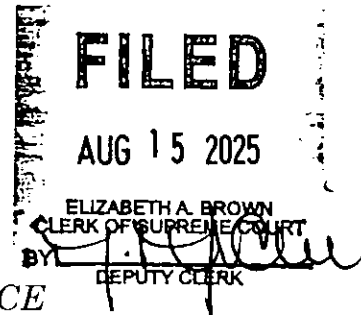


IN THE SUPREME COURT OF THE STATE OF NEVADA

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

No. 90364



ORDER OF AFFIRMANCE

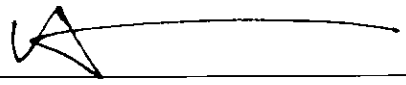
This is a pro se appeal from a district court order dismissing a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Monica Trujillo, Judge.

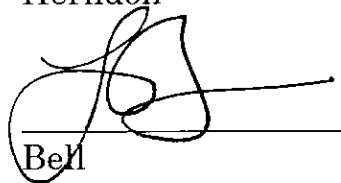
Appellant Thomas Nevius filed a postconviction petition for a writ of habeas corpus in district court, requesting compassionate release from prison. Nevius also filed a motion for the appointment of counsel. The district court summarily dismissed Nevius's petition, finding that a postconviction petition for a writ of habeas corpus is not the appropriate vehicle for a prisoner to request compassionate release. Consequently, the court also denied Nevius's motion for the appointment of counsel. We agree with the district court.

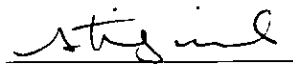
The Nevada Department of Corrections maintains a program for compassionate release. NRS 209.3925. An incarcerated individual who is physically incapacitated, in ill health, or terminally ill may submit a request for residential confinement to the director of the Department of Corrections. NRS 209.3925(1), (2). The director has exclusive discretionary authority to approve such a release, and "[a]n offender does not have a right" to compassionate release. NRS 209.3925(1), (8). The courts are not involved in this process.

A postconviction petition for a writ of habeas corpus serves to challenge the constitutionality of a defendant's conviction or sentence or to challenge the computation of time that person has served. NRS 34.724(1). Nevius did not raise any such claims in the petition. Thus, the district court properly determined that a postconviction petition for a writ of habeas corpus was not the correct vehicle for the relief Nevius sought and summarily dismissed the petition. Accordingly, the district court also did not err in denying Nevius's motion for the appointment of counsel. *See* NRS 34.750(1) ("If . . . the petition *is not dismissed summarily*, the court may appoint counsel to represent the petitioner.") (emphasis added). Therefore, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Herndon


_____, J.
Bell


_____, J.
Stiglich

cc: Hon. Monica Trujillo, District Judge
Thomas Nevius
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk