

IN THE SUPREME COURT OF THE STATE OF NEVADA

DERRICK EVERETT BISHOP,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39347

FILED

NOV 22 2002

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant's petition for remission of ordered reimbursement.

On February 18, 1999, the district court convicted appellant, pursuant to a guilty plea, of attempted lewdness with a child under the age of fourteen years. The district court sentenced appellant to serve a term of thirty-two to one hundred and forty-four months in the Nevada State Prison, to be served concurrently with appellant's sentence in district court case number CR98-2927. In addition, the district court ordered appellant to pay restitution and various fees and reimbursements, including \$500.00 reimbursement to the Washoe County Public Defender's Office for legal representation. No direct appeal was taken.

On February 13, 2002, appellant filed a proper person petition for remission of ordered reimbursement in the district court. On February 28, 2002, the district court denied appellant's petition. This appeal followed.

In his petition, appellant contended that the district court failed to consider appellant's financial resources as required by NRS 178.3975. First, appellant waived that claim by failing to raise it on direct appeal.¹ Second, the claim is without merit. Pursuant to NRS 178.3975(2), the district court can order a defendant to pay legal expenses if, in determining the amount and method of payment, the court considers the financial resources of the defendant and the nature of the burden that payment will impose. NRS 178.3975(3) provides that:

A defendant who has been ordered to pay expenses of his defense and who is not willfully or without good cause in default in the payment thereof may at any time petition the court which ordered the payment for remission of the payment or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or his immediate family, the court may remit all or part of the amount due or modify the method of payment.


The record reflects that prior to incarceration, appellant's monthly expenses totaled \$585.00 and his liquid assets totaled \$5,350.00. Accordingly, we conclude that the district court did not err in imposing the payment and finding that the \$500.00 reimbursement for legal representation would not impose manifest hardship on appellant or his immediate family.

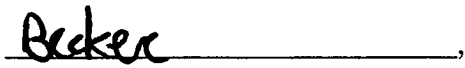
¹See Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994).

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.² Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Shearing


_____, J.
Leavitt


_____, J.
Becker

cc: Hon. Janet J. Berry, District Judge
Attorney General/Carson City
Washoe County District Attorney
Derrick Everett Bishop
Washoe District Court Clerk

²See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).