

IN THE SUPREME COURT OF THE STATE OF NEVADA

KEITH KEN WINTERS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 39576

FILED

JUL 30 2002

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant's motion for relief from judgment pursuant to NRCP 60(b).

On July 31, 2000, the district court convicted appellant, pursuant to a guilty plea, of one count of trafficking in a controlled substance and one count of manufacturing a controlled substance. The district court sentenced appellant to serve two consecutive terms of eighteen to sixty months in the Nevada State Prison. No direct appeal was taken.

On July 6, 2001, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. Appellant filed a motion for summary judgment. The State opposed the motion. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On January 10, 2002, the

district court denied appellant's petition and motion. No appeal was taken.

On March 21, 2002, appellant filed a motion for relief from judgment pursuant to NRCP 60(b). The State opposed the motion. On April 10, 2002, the district court denied appellant's motion. This appeal followed.

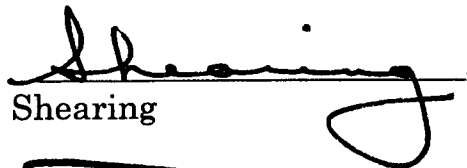
In his motion, appellant contended that there were mistakes, fraud, and misrepresentations in the district court's order denying his habeas corpus petition. Appellant also challenged the manner in which the post-conviction proceedings were conducted.

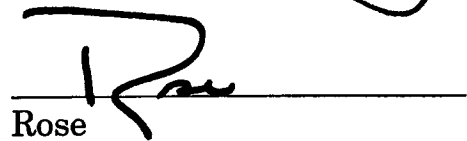
"[T]he provisions of NRS 34.780 expressly limit the extent to which civil rules govern post-conviction habeas proceedings. We cannot turn to the rules of civil procedure for guidance when NRS Chapter 34 has already addressed the matter at issue."¹ NRS 34.575 provides that an appeal may be taken from the denial of a habeas corpus petition within thirty days after service by the court of written notice of entry of the order. There is no need to turn to the rules of civil procedure because NRS chapter 34 provides the manner in which relief from an order denying a habeas corpus may be pursued. Appellant improperly attempted to seek relief from the district court's order denying his habeas corpus petition through the motion. Therefore, we conclude that the district court did not err in denying appellant's motion.

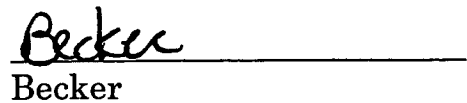
¹Mazzan v. State, 109 Nev. 1067, 1073, 863 P.2d 1035, 1038 (1993).

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.
Rose

 _____, J.
Becker

cc: Hon. Donald M. Mosley, District Judge
Attorney General/Carson City
Clark County District Attorney
Keith Ken Winters
Clark County Clerk

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