

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL C. RATLIFF,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 40381

FILED

AUG 20 2003

ORDER OF AFFIRMANCE

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

This is a proper person appeal from an order of the district court denying appellant Michael Ratliff's post-conviction petition for a writ of habeas corpus.

On March 1, 2002, the district court convicted Ratliff, pursuant to a guilty plea, of one count of operating a motor vehicle while under the influence of intoxicating liquors (DUI), in violation of NRS 484.379 and 484.3792, with two prior DUI convictions within seven years. The district court sentenced Ratliff to serve a term of 60 months in the Nevada State Prison with the possibility of parole in 18 months. Ratliff filed a direct appeal from his conviction. On May 30, 2002, this court issued an order affirming Ratliff's conviction.¹

On July 22, 2002, Ratliff filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent Ratliff or to conduct an

¹Ratliff v. State, Docket No. 39342 (Order of Affirmance, May 30, 2002).

evidentiary hearing. On October 1, 2002, the district court denied Ratliff's petition. This appeal followed.

In his petition, Ratliff contended that the district court improperly sentenced him because the court had knowledge of pending, or threatened, civil litigation against the State and, therefore, displayed "bias and prejudice" in sentencing him, violating his right to due process. To support his contention, Ratliff cited to the fact that the sentencing range the district court imposed was greater than the sentencing range recommended by the State during the sentencing hearing, and also greater than the sentencing range recommended by the Division of Parole and Probation in his pre-sentence investigation report.


NRS 34.810(1)(a) limits the scope of a post-conviction habeas corpus petition when the conviction is based upon a guilty plea. A petition may allege that the plea was involuntary or unknowingly entered, or that the plea was entered without the effective assistance of counsel. Ratliff raised neither of these issues in his petition. Therefore, we conclude that Ratliff's contention falls outside of the scope of permissible claims.

Moreover, our review of the record reveals that Ratliff contended on direct appeal that the district court abused its discretion by improperly considering pending, or threatened, civil litigation against the State in its sentencing decision and, as a result, imposed a sentence that was too harsh. In our order affirming Ratliff's conviction, we held that "the district court did not abuse its discretion at sentencing." Ratliff does not now raise any new issues or factual contentions in his current petition

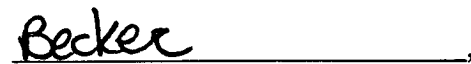
that we have not already reviewed, and denied, on direct appeal.² Therefore, we also conclude that the claim in Ratliff's current petition is barred from being revived by the doctrine of the law of the case.³

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Ratliff is not entitled to relief and that briefing and oral arguments are unwarranted.⁴ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁵


_____, J.
Shearing


_____, J.
Leavitt


_____, J.
Becker

²Ratliff also contended that his substantive due process rights were violated by his imprisonment. However, Ratliff provides no supporting factual allegations to support this contention whatsoever and, therefore, we conclude it was also properly denied by the district court. See Hargrove v. State, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984).

³See Hall v. State, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975) (holding that factually similar but "more detailed and precisely focused argument[s] subsequently made after reflection upon . . . previous proceedings" are barred from reconsideration).

⁴See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁵We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.

cc: Hon. Dan L. Papez, District Judge
Michael C. Ratliff
Attorney General Brian Sandoval/Carson City
Eureka County District Attorney
Eureka County Clerk