

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID TURNER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 42608

FILED

JUL 8 2004

ORDER OF AFFIRMANCE

DIANE M. BLOOM
CLERK OF SUPREME COURT
BY J. J. [Signature]
DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

On January 31, 2002, the district court convicted appellant, pursuant to a jury verdict, of one count of battery with a deadly weapon causing substantial bodily harm, three counts of battery with a deadly weapon, one count of assault with a deadly weapon, and two counts of burglary while in possession of a deadly weapon. The district court sentenced appellant to serve terms totaling 156 months to 432 months in the Nevada State Prison. This court affirmed the judgment of conviction on direct appeal.¹ The remittitur issued on November 5, 2002.

On August 7, 2003, appellant 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 appellant or to conduct an evidentiary hearing. On November 7, 2003, the district court entered an order denying appellant's petition. This appeal followed.

¹Turner v. State, Docket No. 39166 (Order of Affirmance, October 8, 2002).


Appellant raised four claims for relief. First, appellant claimed that the sentences for battery should have been imposed to run concurrently with one another. Second, appellant claimed that his sentence was too harsh given his prior criminal record. Third, appellant claimed that the jury was not fully informed of the full definition of intent for each crime. Finally, appellant claimed that there was insufficient evidence to support the burglary charge involving the van.

Based upon our review of the record on appeal, we conclude that the district court did not err in denying appellant's petition. Appellant waived these claims by failing to raise them on direct appeal, and appellant failed to demonstrate good cause for his failure to do so.² Therefore, we affirm the order of the district court.

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.³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

²See NRS 34.810(1)(b).

³See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

cc: Hon. Donald M. Mosley, District Judge
David Turner
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk