

IN THE SUPREME COURT OF THE STATE OF NEVADA

GEORGE GONZALES,
Petitioner,
vs.
WARDEN, SOUTHERN DESERT
CORRECTIONAL CENTER, SHERMAN
HATCHER,
Respondent.

No. 42750

FILED

MAR 11 2004

[Signature]
JANET CALVERT
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER DENYING PETITION

This original proper person post-conviction petition for a writ of habeas corpus was filed in this court on February 4, 2004. In federal habeas corpus proceedings, the federal court ruled that claims presented by petitioner George Gonzales remain unexhausted in the state courts for purposes of federal habeas review. Accordingly, Gonzales now seeks this court's explicit consideration and resolution of these federal constitutional claims collaterally attacking his Nevada conviction.¹


This court will not consider such a post-conviction petition for a writ of habeas corpus in the first instance. Gonzales' remedy, if any, is to first file his state post-conviction habeas petition in the Nevada district court in accordance with the statutory scheme set forth in NRS chapter 34. Such a petition must demonstrate either good cause and prejudice or a fundamental miscarriage of justice sufficient to overcome the procedural


¹Gonzales was convicted on August 8, 1995, pursuant to a jury verdict, of three counts of conspiracy to traffic in a controlled substance and three counts of trafficking in a controlled substance.

bars to a successive and untimely petition.² If aggrieved by the decision of district court, Gonzales may then appeal the adverse decision to this court.³ Accordingly, having concluded that this court's consideration of the instant petition at this time is unwarranted, we hereby

ORDER the petition DENIED.


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: George Gonzales
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger

²See NRS 34.726(1); NRS 34.745(4); NRS 34.800; NRS 34.810; see also Pellegini v. State, 117 Nev. 860, 886-87, 34 P.3d 519, 537 (2001).

³See NRS 34.575(1).