

IN THE SUPREME COURT OF THE STATE OF NEVADA

DOYLE D. LANCASTER,  
Appellant,  
vs.  
DAVID R. HOUSTON,  
Respondent.

No. 58842

**FILED**

SEP 13 2012

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY R. Malone  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court summary judgment in a legal malpractice action. Second Judicial District Court, Washoe County; Robert H. Perry, Judge.

This court reviews summary judgments de novo. Wood v. Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is appropriate if the pleadings and other evidence on file, viewed in the light most favorable to the nonmoving party, demonstrate that no genuine issue of material fact remains in dispute and that the moving party is entitled to judgment as a matter of law. Id.; see also NRCP 56(e).

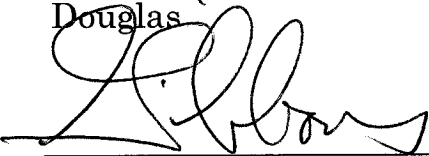
Having reviewed the record and appellant's proper person appeal statement, we conclude that the district court did not err. In particular, appellant did not assert that he has obtained relief from his conviction, and thus, he cannot maintain a legal malpractice action against his criminal defense attorney. See Morgano v. Smith, 110 Nev. 1025, 1028-29, 879 P.2d 735, 737-38 (1994) (holding that a legal malpractice action against a criminal defense attorney cannot be

maintained unless the plaintiff has obtained appellate or post-conviction relief from the conviction or sentence, or otherwise established innocence of the charges). Accordingly, we

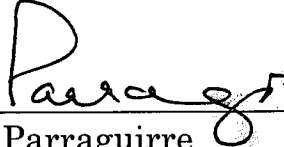
ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.

Douglas

  
\_\_\_\_\_, J.

Gibbons

  
\_\_\_\_\_, J.

Parraguirre

cc: Second Judicial District Court, Department 9  
Doyle Dolen Lancaster  
Lemons, Grundy & Eisenberg  
Washoe District Court Clerk