

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KESHA NICHOLE WESTBROOKS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 71140

FILED

JUL 12 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Kesha Nichole Westbrook appeals from a district court order denying the postconviction petition for a writ of habeas corpus she filed on April 13, 2016.¹ Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

First, Westbrook claims the district court erred by denying her petition because the victim was allowed to present a victim impact statement which asked for more prison time than the parties agreed to in their guilty plea agreement, many of the victim's statements were untrue, and she was not given an opportunity to refute the victim's statements. The district court found Westbrook waived this claim by not pursuing it in a direct appeal. We conclude the district court did not err in this regard. *See Franklin v. State*, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) ("[C]laims that are appropriate for a direct appeal must be pursued on direct appeal, or they will be considered waived in subsequent


¹This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

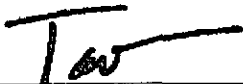
proceedings.”), *overruled on other grounds by Thomas v. State*, 115 Nev. 148, 150, 979 P.2d 222, 223-24 (1999).

Second, Westbrooks claims the district court erred by denying her petition because she received a lengthy sentence due to the district court’s bias against white-collar criminals. The district court found Westbrooks waived this claim by not pursuing it in a direct appeal. We conclude the district court did not err in this regard. *See id.*

Third, Westbrooks claims the district court erred by not appointing postconviction counsel. The district court found the issues raised in Westbrooks’ petition were not complex or difficult, her claims did not require assistance or discovery, she clearly laid out her arguments and did not demonstrate counsel would be able to further develop them, and her pro se habeas petition showed she was capable of understanding the proceedings. We conclude the district court did not abuse its discretion by denying Westbrooks’ petition without appointing counsel. *See NRS 34.750(1); Renteria-Novoa*, 133 Nev. ___, 391 P.3d 760 (2017).

Having concluded Westbrooks is not entitled to relief, we
ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Douglas E. Smith, District Judge
Kesha Nichole Westbrooks
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk