

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KARL WILLIAM SCHENKER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73367

FILED

MAY 15 2018

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

ORDER OF AFFIRMANCE

Karl William Schenker appeals from a district court order denying the post-sentence motion to withdraw a guilty plea filed on October 31, 2016.¹ Second Judicial District Court, Washoe County; A. William Maupin, Senior Justice.

Schenker claims the district court erred by applying *Harris v. State*, 130 Nev. 435, 329 P.3d 619 (2014), to his motion to withdraw the guilty plea because his motion was raised pursuant to NRS 176.515(1). In *Harris*, the Nevada Supreme Court held that “a post-conviction petition for a writ of habeas corpus provides the exclusive remedy for a challenge to the validity of the guilty plea made after sentencing for persons in custody on the conviction being challenged.” *Id.* at 448, 329 P.3d at 628.


Schenker’s motion challenged the validity of his guilty plea; therefore, the district court properly construed the motion as a postconviction petition for a writ of habeas corpus and required Schenker to cure the procedural defects in the petition within a reasonable amount of


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

time. *See id.* Schenker made no attempt to cure the petition's procedural defects, and we conclude the district court did not err in denying the petition as procedurally barred.² Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Chief Judge, Second Judicial District Court
Hon. A. William Maupin, Senior Justice
Karl William Schenker
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

²Schenker's petition was untimely because it was filed more than seven years after the entry of the judgment of conviction on November 14, 2008. *See* NRS 34.726(1); *Dickerson v. State*, 114 Nev. 1084, 1087, 967 P.3d 1132, 1133-34 (1998) (discussing the proper date for measuring the timeliness of a habeas petition when the direct appeal was dismissed for lack of jurisdiction); *Schenker v. State*, Docket No. 53006 (Order Dismissing Appeal, February 26, 2009).