

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LESTER EUGENE SELANDER, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 75454-COA

FILED

MAR 20 2019

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

ORDER OF AFFIRMANCE


Lester Eugene Selander, Jr., appeals from an order of the district court dismissing a petition for a writ of habeas corpus filed on June 22, 2017.¹ Eighth Judicial District Court, Clark County; James Crockett, Judge.

Selander contends the district court erred by construing his petition as a postconviction petition for a writ of habeas corpus and then dismissing it. Selander's petition stated he was seeking relief pursuant to NRS 34.360. We will assume, without deciding, that the district court erred by construing Selander's pleading as a postconviction petition. A person "may prosecute a writ of habeas corpus to inquire into the cause of [his] imprisonment or restraint." NRS 34.360. Further, a petition must include "[a]ffidavits, records or other evidence supporting the allegations in the petition" or explain why they were not. NRS 34.370(4). Selander conceded he is being restrained due to an order revoking probation and amended judgment of conviction. Also, Selander provided no evidence to support any

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

of his allegations. For these reasons, we conclude the district court did not err by dismissing Selander's petition. *See Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) (holding a correct result will not be reversed simply because it is based on the wrong reason). Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, J.
Tao


_____, J.
Gibbons


_____, J.
Bulla

cc: Hon. James Crockett, District Judge
Lester Eugene Selander, Jr.
Attorney General/Las Vegas
Clark County District Attorney
Eighth District Court Clerk

²Having construed Selander's pleading as a postconviction habeas petition, the district court suggested Selander erroneously filed the petition as a separate civil action, concluded it could not transfer the case to another department or court, and dismissed the case. However, a writ of habeas corpus is neither purely civil nor purely criminal. *Hill v. Warden*, 96 Nev. 38, 40, 604 P.2d 807, 808 (1980). It is the clerk of the court, not the petitioner, who determines how a petition for writ of habeas corpus is filed, *see* NRS 34.730(3), and the district court has inherent authority to order the clerk of the court to correct any filing error, *see State, ex rel. Harvey v. Second Judicial Dist. Court*, 117 Nev. 754, 771, 32 P.3d 1263, 1274 (2001) (recognizing a district court has "the ability to assert direct control over the court clerk's office"). We nevertheless affirm the district court's order for the reasons states above. *See Wyatt*, 86 Nev. at 298, 468 P.2d at 341.