

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RAYMOND GEAN PADILLA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 82441-COA

FILED

JUN 25 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: *Elizabeth A. Brown*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Raymond Gean Padilla appeals from an order of the district court dismissing a postconviction petition for a writ of habeas corpus filed on May 27, 2020. Eighth Judicial District Court, Clark County; Carolyn Ellsworth, Judge.

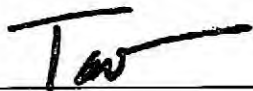
Padilla argues the district court erred by dismissing his petition, because he filed the petition while incarcerated, albeit for a different conviction, and because although he filed his petition after his sentence expired, a criminal conviction will continue to affect him. NRS 34.724(1) limits the right to file a postconviction petition for a writ of habeas corpus to persons who are "convicted of a crime and under a sentence of imprisonment." *See also* Nev. Const. art. 6, § 6(1) (imposing a custody requirement for habeas corpus). A postconviction petition for a writ of habeas corpus cannot be filed by a petitioner who is no longer imprisoned for the conviction at issue. *Coleman v. State*, 130 Nev. 190, 193, 321 P.3d 863, 865-866 (2014).

The district court found that Padilla expired his sentence prior to filing his petition and that he was incarcerated for a different case when he filed the petition. This finding is supported by the record, and Padilla

does not dispute that his sentence had expired before he filed his petition. Because Padilla did not meet the imprisonment requirement of NRS 34.724(1), we conclude the district court did not err by dismissing the petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Chief Judge, Eighth Judicial District Court
Eighth Judicial District Court, Dept. 5
Raymond Gean Padilla
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk