

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TERRIE SENA, A/K/A TERRIE LYNNE  
CLARK,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 82107-COA

**FILED**

JUL 12 2021

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

*ORDER AFFIRMING IN PART AND DISMISSING IN PART*

Terrie Sena appeals from orders of the district court denying a postconviction petition requesting genetic marker analysis and a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.

*Postconviction petition requesting genetic marker analysis*

Sena argues the district court erred by denying her August 28, 2020, petition without first conducting an evidentiary hearing. In her petition, Sena requested genetic marker analysis of specimens collected pursuant to a sexual assault examination of a victim in this matter and analysis of all of the biological evidence in her case. Sena also requested written documentation cataloging when an examination of a victim was conducted, what biological evidence was collected during the examination, and who authorized the examination of the minor victim.

However, Sena did not allege a rationale for why a reasonable possibility exists that she would not have been prosecuted or convicted if exculpatory results had been obtained through a genetic marker analysis of

evidence involved in this case. Sena thus did not meet the requirements for obtaining a genetic marker analysis. See NRS 176.0918(3)(b). Therefore, we conclude the district court did not abuse its discretion by summarily denying Sena's petition without conducting an evidentiary hearing. See NRS 176.0918(4)(a); see also *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984) (holding that to warrant an evidentiary hearing, a petitioner must raise claims supported by specific factual allegations that are not belied by the record and, if true, would entitle her to relief).

*Postconviction petition for a writ of habeas corpus*

Sena also argues the district court erred by denying her postconviction petition for a writ of habeas corpus. However, this court's review of this portion of Sena's appeal reveals a jurisdictional defect. Specifically, the district court entered its order denying the petition on August 28, 2020. The district court served notice of entry of that order on August 31, 2020. Sena did not file the notice of appeal, however, until November 10, 2020, well after the expiration of the 30-day appeal period prescribed by NRS 34.575(1). "[A]n untimely notice of appeal fails to vest jurisdiction in this court." *Lozada v. State*, 110 Nev. 349, 352, 871 P.2d 944, 946 (1994), *overruled on other grounds by Rippo v. State*, 134 Nev. 411, 426, 423 P.3d 1084, 1100 (2018). Accordingly, this court lacks jurisdiction to consider Sena's appeal from the order denying her postconviction petition for a writ of habeas corpus. Therefore, we dismiss that portion of Sena's appeal. Accordingly, we

AFFIRM the judgment of the district court denying the postconviction petition requesting genetic marker analysis and DISMISS

the portion of the appeal pertaining to the postconviction petition for a writ of habeas corpus.

  
\_\_\_\_\_, C.J.  
Gibbons

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

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

cc: Hon. Jerry A. Wiese, District Judge  
Terrie L. Sena  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk