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Summary of Hosier v. State, 121 Nev. Adv. Op. 41

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Nevada Law Journal

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Henriksen, Robert, "Summary of Hosier v. State, 121 Nev. Adv. Op. 41" (2005). *Nevada Supreme Court Summaries*. 587.

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***Hosier v. State*, 121 Nev. Adv. Op. 41 (August 11, 2005)¹**

CRIMINAL LAW – HABEAS CORPUS

Summary

This case is an original proper person petition for extraordinary relief, challenging the validity of Hosier’s 1990 judgment for conviction citing to Article 6, Section 4 of the Nevada Constitution.

Disposition/Outcome

The Court’s exercise of original jurisdiction over the petition is not warranted.

Factual & Procedural History

Hosier was convicted of seven counts of sexual assault and one count of lewdness with a child under fourteen years of age. He was sentenced to serve seven consecutive life terms in the Nevada State prison with the possibility of parole after five years had been served on each term.

Hosier appealed his conviction, which was subsequently dismissed by the Nevada Supreme Court in 1991.

“In 1993, Hosier filed an untimely post-conviction petition for writ of habeas corpus in the district court.”² The district court denied his petition for untimeliness and lack of good cause contrary to the requirements of NRS 34.726. The Nevada Supreme Court dismissed his petition. On March 22, 2005, Hosier filed this original proper person petition in the Nevada Supreme Court.

Discussion

Hosier argues that under Article 6, Section 4 of the Nevada Constitution he is entitled to have his petition reviewed by the Nevada Supreme Court. Article 6, Section 4 provides, in pertinent part, that the court has jurisdiction to “issue all writs necessary or proper to the complete exercise of its appellate jurisdiction.” Hosier argues that the Nevada Supreme Court is compelled to exercise original jurisdiction based on *Blair v. Crawford*,³ because “procedural and time snarls” have prevented the Court from adequately reviewing his claims. In essence, he is arguing that the Court has not “completed” the exercise of its appellate jurisdiction.⁴

The Nevada Supreme Court observes that his arguments are unpersuasive. It holds that the court “will not exercise its original jurisdiction to consider a writ petition in a criminal case raising claims that could or should have been raised in an appeal or in an appropriate post-conviction proceeding in the district court.”⁵

¹ By Robert Henriksen

² *Hosier v. State*, 121 Nev. Adv. Op. 41 (Aug. 11, 2005).

³ 275 F.3d 1156 (9th Cir. 2002).

⁴ *Hosier*, 121 Nev. Adv. Op. 41.

⁵ *Id.*

Hosier's argument based on *Blair* is misplaced. *Blair* stands for the proposition that the filing of an original petition in the court serves as "a tolling document for federal habeas corpus purposes."⁶

Policy supports the determination. The Nevada Supreme Court's ability to review the claims is limited, because the Nevada Constitution limits its appellate jurisdiction to questions of law. Petitions seeking the court to exercise original jurisdiction circumvent procedural bars, comprise the court's interest in the finality of judgments, and waste judicial resources.⁷

Conclusion

The court denied the petition. Hosier failed to present a compelling reason for the court's exercise of original jurisdiction.

⁶ *Id.*

⁷ *Id.*