

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN CRAIG ROMINE,
Appellant,
vs.
WARDEN, ELY STATE PRISON, E.K.
MCDANIEL,
Respondent.

No. 43455

FILED

OCT 07 2004

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

This is an appeal from an order of the district court denying appellant Steven Craig Romine's post-conviction petition for a writ of habeas corpus. Fourth Judicial District Court, Elko County; J. Michael Memeo, Judge.

On June 25, 1997, Romine was convicted, pursuant to a guilty plea, of felony driving under the influence causing death and substantial bodily harm. The district court sentenced Romine to serve a prison term of 96-240 months, and ordered him to pay a fine of \$5,000.00 and restitution in the amount of \$37,268.82. Romine's direct appeal was dismissed by this court.¹

On May 1, 2001, Romine filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. Pursuant to NRS 34.750 and NRS 34.770, the district court declined to appoint counsel to represent Romine or to conduct an evidentiary hearing. On August 7, 2001, the district court

¹Romine v. State, Docket No. 31246 (Order Dismissing Appeal, June 9, 2000). The remittitur issued on July 6, 2000.

entered an order denying Romine's petition. On appeal, this court affirmed the district court's order.²

On May 7, 2001, Romine filed another proper person post-conviction petition for a writ of habeas corpus in the district court. On September 9, 2002, Romine filed an amended proper person post-conviction petition for a writ of habeas corpus. The State opposed the petition. The district court appointed counsel to represent Romine and counsel filed a supplemental petition. The district court conducted an evidentiary hearing, and on June 4, 2004, entered an order denying Romine's petition. This timely appeal followed.

Romine contends that the Department of Corrections acted arbitrarily and capriciously in denying him additional good time credits, and therefore, the district court erred in denying his petition. We conclude that Romine is not entitled to any relief.

Application of the procedural default rules to post-conviction petitions for writs of habeas corpus is mandatory.³ The Nevada Legislature "never intended for petitioners to have multiple opportunities to obtain post-conviction relief absent extraordinary circumstances."⁴ In this case, the district court found that Romine's petition was successive.⁵ Romine previously filed a post-conviction petition for a writ of habeas corpus in the district court, and therefore, his petition was procedurally

²Romine v. State, Docket No. 38293 (Order of Affirmance, September 5, 2002).

³State v. Haberstroh, 119 Nev. 173, 180, 69 P.3d 676, 681 (2003).

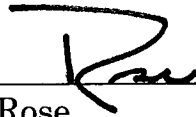
⁴Pellegrini v. State, 117 Nev. 860, 876, 34 P.3d 519, 530 (2001).

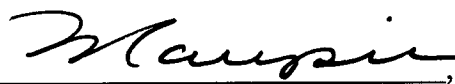
⁵See NRS 34.810(2).


barred absent a demonstration of good cause and prejudice.⁶ Romine, however, has not offered an explanation at any point in the proceedings below or on appeal for why he filed a successive petition. Additionally, Romine raised the same general argument regarding the awarding of good time credits in both his previous habeas petition and in a separate mandamus petition filed in this court.⁷ This court has stated that the law of a prior appeal is the law of the case in later proceedings in which the facts are substantially the same; this doctrine cannot be avoided by more detailed and precisely focused argument.⁸ Therefore, we conclude that the district court did not err in denying Romine's petition.

Accordingly, having considered Romine's contention and concluded that it is without merit, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Rose


_____, J.
Maupin


_____, J.
Douglas

⁶See NRS 34.810(3).

⁷Romine v. District Court, Docket No. 39378 (Order Denying Petition, April 16, 2002).

⁸See Hall v. State, 91 Nev. 314, 315-16, 535 P.2d 797, 798-99 (1975).

cc: Hon. J. Michael Memeo, District Judge
Matthew J. Stermitz
Attorney General Brian Sandoval/Ely
Elko County Clerk