

IN THE SUPREME COURT OF THE STATE OF NEVADA

J. BENJAMIN ODOMS A/K/A JOHN
BENJAMIN ODOMS A/K/A JOHN B.
ODOM,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43495

FILED

SEP 22 2004

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant J. Benjamin Odoms' post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Lee A. Gates, Judge.

On June 14, 1982, the district court convicted Odoms, pursuant to a jury verdict, of one count each of burglary and attempted murder with the use of a deadly weapon. The district court adjudicated Odoms a habitual criminal and sentenced him to serve three consecutive life terms in the Nevada State Prison without the possibility of parole. On appeal, this court affirmed Odoms' convictions, vacated the life sentence without the possibility of parole imposed for the deadly weapon enhancement and affirmed Odoms' two consecutive life sentences without the possibility of parole for the primary offenses.¹ The district court entered an amended judgment of conviction on June 10, 1986, reflecting the imposition of two consecutive life sentences without the possibility of

¹Odoms v. State, 102 Nev. 27, 714 P.2d 568 (1986).

parole. The remittitur issued on May 2, 1986. Odoms unsuccessfully sought post-conviction relief.²

On March 23, 2004, Odoms filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition arguing that Odoms' petition was time-barred and successive. Moreover, the State specifically pleaded laches. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent Odoms or to conduct an evidentiary hearing. On June 3, 2004, the district court denied Odoms' petition. This appeal followed.

Odoms filed his petition almost 18 years after this court issued the remittitur from his direct appeal. Thus, Odoms' petition was untimely filed.³ Moreover, Odoms' petition was successive because he had previously filed several post-conviction habeas corpus petitions.⁴ Odoms' petition was procedurally barred absent a demonstration of good cause and prejudice.⁵ Further, because the State specifically pleaded laches, Odoms was required to overcome the presumption of prejudice to the State.⁶

²Odoms v. State, Docket No. 37617 (Order of Affirmance, January 2, 2002); Odom v. State, Docket No. 31533 (Order Dismissing Appeal, September 14, 2000); Odoms v. State, Docket No. 29443 (Order Dismissing Appeal, November 20, 1998); Odoms v. State, Docket No. 18650 (Order Dismissing Appeal, December 29, 1988). The judgment of conviction filed June 10, 1986, reflects that appellant is known as "Odom" and "Odoms."

³See NRS 34.726(1).

⁴See NRS 34.810(1)(b); NRS 34.810(2).


⁵See NRS 34.726(1); NRS 34.810(3).

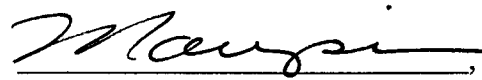
⁶See NRS 34.800(2).


Odoms offered no excuse whatsoever to explain his procedural defects. Additionally, Odoms failed to overcome the presumption of prejudice to the State in filing such a late petition. Moreover, Odoms' claim that the district court unconstitutionally imposed NRS 207.010 in his case was considered and rejected by this court on direct appeal. "Under the law of the case doctrine, issues previously determined by this court on appeal may not be reargued as a basis for habeas relief."⁷

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Odoms is not entitled to relief and that briefing and oral argument are unwarranted.⁸ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁹


_____, J.
Rose


_____, J.
Maupin


_____, J.
Douglas

⁷Pellegrini v. State, 117 Nev. 860, 888, 34 P.3d 519, 538 (2001).

⁸See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁹We have reviewed all documents that Odoms has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that Odoms has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.

cc: Hon. Lee A. Gates, District Judge
J. Benjamin Odoms
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk