

IN THE SUPREME COURT OF THE STATE OF NEVADA

REX DOYLE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 44137

**FILED**

DEC 02 2004

ORDER OF AFFIRMANCE

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

This is a proper person appeal from an order of the district court denying appellant Rex Doyle's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; John S. McGroarty, Judge.

On June 21, 2002, the district court convicted Doyle, pursuant to a guilty plea, of manufacture and/or compounding of a controlled substance (count I) and two counts of possession of visual presentation depicting sexual conduct of a person under 16 years of age (counts II and III). The district court sentenced Doyle to serve a term of 36 to 96 months in the Nevada State Prison for count I and two concurrent terms of 12 to 48 months for counts II and III, to be served concurrently with count I.<sup>1</sup> No appeal was taken.

On July 1, 2004, Doyle filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State

---

<sup>1</sup>The district court entered an amended judgment of conviction to impose a special sentence of lifetime supervision.

opposed the petition. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent Doyle or to conduct an evidentiary hearing. On September 27, 2004, the district court denied Doyle's petition. This appeal followed.

Doyle filed his petition nearly two years after entry of the judgment of conviction. Thus, Doyle's petition was untimely filed.<sup>2</sup> Doyle's petition was procedurally barred absent a demonstration of good cause for the delay and prejudice.<sup>3</sup>

In an attempt to demonstrate good cause for the delay, Doyle argued that he misunderstood the nature of lifetime supervision and that this portion of his sentence has not yet commenced. However, the record reveals that the district court advised Doyle that he would be subject to lifetime supervision. Additionally, Doyle's plea agreement provided that he was subject to lifetime supervision. Doyle clearly was aware that his sentence included lifetime supervision within the one-year time period in which Doyle had to file his petition.<sup>4</sup> Moreover, Doyle's reliance on Palmer v. State<sup>5</sup> is misplaced and fails to support his claim of good cause.

---

<sup>2</sup>See NRS 34.726(1).

<sup>3</sup>See id.


<sup>4</sup>See Hathaway v. State, 119 Nev. 248, 71 P.3d 503 (2003).

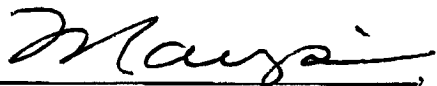
<sup>5</sup>118 Nev. 823, 59 P.3d 1192 (2002).

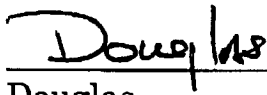
Additionally, Doyle cited U.S. v. Kincade<sup>6</sup> to support his good cause claim. However, the Ninth Circuit court vacated its opinion in Kincade after en banc reconsideration. Accordingly, we conclude Doyle did not establish good cause for the untimely filing of his petition.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Doyle is not entitled to relief and that briefing and oral argument are unwarranted.<sup>7</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 \_\_\_\_\_ J.  
Rose

 \_\_\_\_\_ J.  
Maupin

 \_\_\_\_\_ J.  
Douglas

cc: Hon. John S. McGroarty, District Judge  
Rex Doyle  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

---

<sup>6</sup>345 F.3d 1095 (9th Cir. 2003) (vacated by U.S. v. Kincade, 354 F.3d 1000 (9th Cir. 2004)).

<sup>7</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).