

IN THE SUPREME COURT OF THE STATE OF NEVADA

GEORGE THOMAS LOVELL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 44217

FILED

FEB 03 2005

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 George Thomas Lovell's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

On October 2, 1997, the district court convicted Lovell, pursuant to a jury verdict, of burglary while in possession of a firearm, robbery with the use of a deadly weapon, possession of stolen property and possession of a firearm by an ex-felon. The district court sentenced Lovell to 120 months in the Nevada State Prison for the burglary conviction with parole eligibility after 26 months. The district court further sentenced Lovell to 30 to 75 months for the robbery conviction, plus an equal and consecutive term for the deadly weapon enhancement, to run consecutively to the burglary conviction. Additionally, the district court sentenced Lovell to 24 to 72 months for the possession of stolen property conviction, to run consecutively to the robbery conviction. Finally, the district court adjudicated Lovell a habitual criminal and sentenced him to 60 to 240 months for the possession of firearm by ex-felon conviction, to run

consecutively to the possession of stolen property conviction.<sup>1</sup> No direct appeal was taken.

On March 25, 1999, Lovell filed a proper person post-conviction petition for a writ of habeas corpus in the district court, which the district court denied as untimely filed. This court affirmed the district court's order denying Lovell's petition.<sup>2</sup>

On April 19, 2004, Lovell filed a second proper person post-conviction habeas petition in the district court. The State filed a motion to dismiss the petition. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent Lovell or to conduct an evidentiary hearing. On October 28, 2004, the district court dismissed Lovell's petition. This appeal followed.

Lovell filed his petition nearly seven years after entry of the judgment of conviction. Thus, Lovell's petition was untimely filed.<sup>3</sup> Moreover, Lovell's petition was successive because he had previously filed a habeas petition in the district court.<sup>4</sup> Lovell's petition was procedurally barred absent a demonstration of good cause and prejudice.<sup>5</sup>

In an attempt to excuse his procedural defects, Lovell argued that his claims "are not subject to the harmless error analysis and are

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<sup>1</sup>The district court also stated in the judgment of conviction that it was the district court's intent that Lovell serve ten years in prison before becoming eligible for parole.

<sup>2</sup>Lovell v. State, Docket Nos. 34624, 35233 (Order of Affirmance, November 21, 2000).

<sup>3</sup>See NRS 34.726(1).


<sup>4</sup>See NRS 34.810(1)(b)(2); NRS 34.810(2).


<sup>5</sup>See NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3).

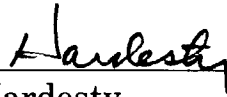
subject to judicial determination at any time without being subject to procedural default rules." Lovell also argued that the delay in filing his petition was excused because he believed that his counsel had filed an appeal on his behalf. However, we conclude that Lovell did not demonstrate good cause to excuse the untimely filing of his petition.<sup>6</sup> We have previously considered and rejected this claim, which was raised in Lovell's previous habeas petition, and Lovell articulated no good cause to reconsider this matter.<sup>7</sup> Based upon our review of the record on appeal, we conclude that Lovell failed to demonstrate good cause to excuse the untimely and successive filing of his habeas petition.

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

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Becker

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

  
\_\_\_\_\_, J.  
Hardesty

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<sup>6</sup>See Hathaway v. State, 119 Nev. 248, 71 P.3d 503 (2003).

<sup>7</sup>See Hall v. State, 91 Nev. 314, 535 P.2d 797 (1975).

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

cc: Hon. Valorie Vega, District Judge  
George Thomas Lovell  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk