

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL MATTHEWS A/K/A
MICHAEL MATTHEW,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44854

FILED

MAY 19 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 Michael Matthews' post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Sally L. Loehrer, Judge.

On December 10, 2003, the district court convicted Matthews, pursuant to a guilty plea, of mid-level trafficking in a controlled substance (count I) and transporting a controlled substance (count II). The district court sentenced Matthews to serve a term of 48 to 180 months in the Nevada State Prison for count I, and a concurrent term of 12 to 48 months for count II. Matthews did not file a direct appeal.

On December 16, 2004, Matthews filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. Matthews filed a reply. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent Matthews or to conduct an evidentiary hearing. On February 11, 2005, the district court denied Matthews' petition. This appeal followed.

Matthews filed his petition one year and six days after entry of his judgment of conviction. Thus, Matthews' petition was untimely filed.¹ Matthews' petition was procedurally barred absent a demonstration of good cause for the delay and prejudice.²

In an attempt to demonstrate good cause for the delay, Matthews claimed that he submitted his petition to prison officials for mailing on December 10, 2004—within the statutory time-period for filing his petition. In support of this contention, Matthews pointed to the certificate of service he attached to his petition, which was dated December 10, 2004.

Based upon our review of the record on appeal, we conclude that the district court properly determined that Matthews' petition was procedurally barred. This court does not recognize the "mailbox rule" for purposes of filing a post-conviction petition for a writ of habeas corpus.³ Although official interference may demonstrate good cause,⁴ Matthews did not establish that any such interference occurred in the instant case. Further, Matthews will not be unduly prejudiced by application of the procedural time bar because the claims he raised in his petition were without merit. We therefore affirm the district court's denial of Matthews' petition.

¹See NRS 34.726(1).

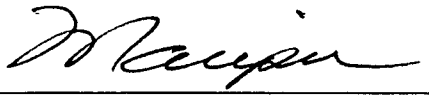
²See id.

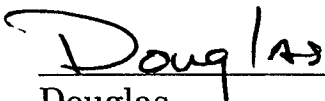
³Gonzales v. State, 118 Nev. 590, 53 P.3d 901 (2002).

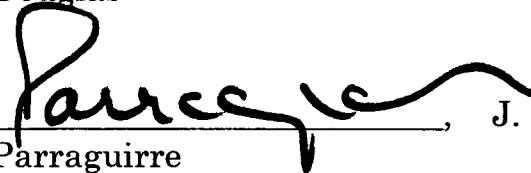
⁴See Hathaway v. State, 119 Nev. 248, 71 P.3d 503 (2003).

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Matthews is not entitled to relief and that briefing and oral argument are unwarranted.⁵ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Maupin


_____, J.
Douglas


_____, J.
Parraguirre

cc: Hon. Sally L. Loehrer, District Judge
Michael Matthews
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁵See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).