

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID EARL REED,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45240

FILED

APR 05 2006

ORDER OF AFFIRMANCE

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

This is an appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Judge. Appellant David Reed pled guilty to the crime of voluntary manslaughter with use of a deadly weapon. Reed was sentenced to a prison term of 30-120 months with an equal and consecutive term for the use of a deadly weapon.

On August 15, 2002, the judgment of conviction was filed. No direct appeal was filed. On August 12, 2003, Reed filed a petition for writ of habeas corpus. The district court denied the petition. Reed filed a second habeas petition on February 15, 2005. The district court denied the second petition because it was procedurally barred because it was untimely, successive and without good cause. That decision is the subject of this appeal.

Reed contends the district court erred by not granting an evidentiary hearing on the matter. "[T]he statutory rules regarding procedural default are mandatory and cannot be ignored when properly

raised by the State."¹ Reed's petition was filed approximately 18 months late.² Reed has failed to show good cause for the filing of a late petition. To establish good cause to excuse a procedural default, a defendant must demonstrate that some impediment external to the defense prevented him from complying with the procedural rule that has been violated.³ Reed has alleged nothing, much less good cause, to excuse the filing of an untimely petition.

The previous petition was denied on its merits by the district court on November 5, 2003. Therefore, Reed's petition was properly denied as successive.⁴ Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Douglas, J.
Douglas

Becker, J.
Becker

Parraguirre, J.
Parraguirre

¹State v. Dist. Ct. (Riker), 121 Nev. ___, ___, 112 P.3d 1070, 1075 (2005).

²NRS 34.726(1).

³Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

⁴NRS 34.810(2).

cc: Hon. Joseph T. Bonaventure, District Judge
Law Offices of James Hartsell
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk