

IN THE SUPREME COURT OF THE STATE OF NEVADA

ADRIAN G. TILLMAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45850

FILED

DEC 23 2005

ORDER OF AFFIRMANCE

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

This is a proper person 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.

On July 1, 1999, the district court convicted appellant, pursuant to an Alford¹ plea, of one count each of second-degree murder, conspiracy to commit murder, and carrying a concealed weapon. The district court sentenced appellant to serve a term of life in the Nevada State Prison with the possibility of parole after ten years for the murder conviction, a consecutive term of twenty-four to sixty months for the conspiracy conviction, and a consecutive term of twelve months for the carrying a concealed weapon conviction. Appellant did not file a direct appeal.

¹North Carolina v. Alford, 400 U.S. 25 (1970).

On June 23, 2005, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed and moved to dismiss the petition, arguing the petition was untimely filed. Moreover, the State specifically pleaded laches. Appellant filed a reply to the motion to dismiss. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On October 12, 2005, the district court denied appellant's petition. This appeal followed.

Appellant filed his petition approximately six years after entry of the judgment of conviction. Thus, appellant's petition was untimely filed.² Appellant's petition was procedurally barred absent a demonstration of good cause and prejudice.³ Further, because the State specifically pleaded laches, appellant was required to overcome the presumption of prejudice to the State.⁴

Appellant presented no cause or prejudice to excuse the procedural defects in his petition. Rather, appellant contended that his petition raised a claim of manifest injustice and was filed pursuant to NRS 34.500 and NRS 176.165 and, therefore, it was not subject to the

²See NRS 34.726(1).

³See NRS 34.726(1).

⁴See NRS 34.800(2).

procedural requirements set forth in NRS 34.720 through NRS 34.830. This contention lacks merit.

Appellant's petition challenged the validity of and requested relief from the judgment of conviction. Accordingly, appellant's petition is subject to the procedural requirements set forth in NRS 34.720 through NRS 34.830. Because appellant failed to demonstrate good cause and prejudice to excuse his untimely petition and failed to overcome the presumption of prejudice to the State, we conclude that the district court did not err in denying the petition. Further, to the extent that appellant's petition could be construed as a motion to withdraw his guilty plea, we conclude it was barred by the equitable doctrine of laches.⁵

Moreover, as a separate and independent ground for denying relief, we conclude appellant's claims lacked merit. Appellant claimed that his plea was improper because the State did not prove his guilt beyond a reasonable doubt at trial. By entering an Alford plea, appellant waived his right to a trial.⁶ Appellant also claimed that he is innocent of the crimes and his counsel coerced him into entering the plea by

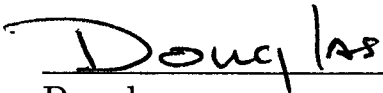
⁵See Hart v. State, 116 Nev. 558, 1 P.3d 969 (2000).

⁶See Alford, 400 U.S. 25.

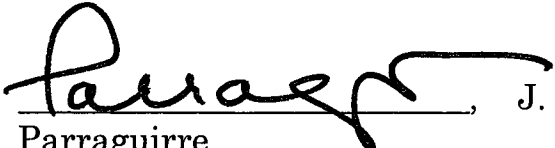
misrepresenting the ramifications of entering into the plea. Appellant failed to provide any facts to support these claims.⁷

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant 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.
Douglas


_____, J.
Rose


_____, J.
Parraguirre

⁷See Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984) (holding that a petitioner is not entitled to relief on claims unsupported by any specific factual allegations).

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

⁹We have reviewed all documents that appellant 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 appellant 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. Joseph T. Bonaventure, District Judge
Adrian G. Tillman
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk