

IN THE SUPREME COURT OF THE STATE OF NEVADA

RALPH FOSTER JACKSON, JR. A/K/A
RALPH JACKSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45943

FILED

DEC 21 2005

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

ORDER OF AFFIRMANCE

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

On March 30, 2000, the district court convicted appellant, pursuant to a jury verdict, of one count of open or gross lewdness, five counts of sexual assault with the use of a deadly weapon, and three counts of sexual assault. The district court sentenced appellant to serve terms totaling fifty years in the Nevada State Prison. This court affirmed appellant's judgment of conviction and sentence on appeal.¹ The remittitur issued on May 29, 2001. Appellant unsuccessfully sought post-conviction relief by way of a post-conviction petition for a writ of habeas corpus.²

¹Jackson v. State, Docket No. 35924 (Order of Affirmance, April 30, 2001).

²Jackson v. State, Docket No. 39208 (Order of Affirmance, October 24, 2002).

On June 16, 2005, appellant filed a proper person post-conviction petition for a writ of habeas corpus 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 appellant or to conduct an evidentiary hearing. On August 29, 2005, the district court dismissed appellant's petition. This appeal followed.

Appellant filed his petition more than four years after this court issued the remittitur from his direct appeal. Thus, appellant's petition was untimely filed.³ Moreover, appellant's petition was successive because he had previously filed a post-conviction petition for a writ of habeas corpus.⁴ Appellant's petition was procedurally barred absent a demonstration of good cause and prejudice.⁵

Appellant argued that his procedural defects should be excused due to "extreme official misconduct where criminal trial transcripts has been altered, rewritten and paragraphs removed." Based upon our review of the record on appeal, we conclude that the district court did not err in determining that appellant failed to demonstrate good cause to excuse his procedural defects. Appellant failed to demonstrate that an impediment external to the defense excused his procedural defects.⁶ Appellant failed to demonstrate that any of the trial transcripts were altered. Further, even assuming that some changes were made to

³See NRS 34.726(1).

⁴See NRS 34.810(1)(b)(2); NRS 34.810(2).

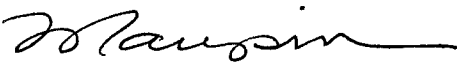
⁵See NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3).


⁶See Hathaway v. State, 119 Nev. 248, 71 P.3d 503 (2003); Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).


the transcripts, appellant failed to demonstrate that these changes prejudiced him or prevented him from adequately raising claims on direct appeal or in the prior post-conviction petition for a writ of habeas corpus.

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.⁷ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.

Maupin

_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. John S. McGroarty, District Judge
Ralph Foster Jackson Jr.
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

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