

IN THE SUPREME COURT OF THE STATE OF NEVADA

JULIO SMITH PARRA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 47175

**FILED**

SEP 06 2006

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Bloom*  
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; Sally L. Loehrer, Judge.

On March 3, 2000, the district court convicted appellant, pursuant to a jury verdict, of one count each of possession of a stolen vehicle, possession of a controlled substance, possession of a firearm by an ex-felon, burglary, and attempted robbery with the use of a deadly weapon and two counts each of robbery with the use of a deadly weapon, and burglary while in possession of a firearm. The district court sentenced appellant to serve multiple prison terms totaling 104 to 480 months in the Nevada State Prison. This court affirmed appellant's judgment of

conviction and sentence on direct appeal.<sup>1</sup> The remittitur issued on July 10, 2001.

On May 31, 2001, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. On May 10, 2002, with counsel's assistance, appellant amended the petition.<sup>2</sup> The State opposed the petition. Pursuant to NRS 34.770, the district court declined to conduct an evidentiary hearing. On August 8, 2002, the district court denied appellant's petition. This court affirmed the district court's denial of appellant's petition.<sup>3</sup>

On January 30, 2006, appellant filed a second proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed 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 April 10, 2006, the district court dismissed appellant's petition. This appeal followed.

Appellant filed his petition more than four and one half years after the remittitur issued in his direct appeal. Thus, appellant's petition

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<sup>1</sup>Parra v. State, Docket No. 35677 (Order of Affirmance, June 12, 2001).

<sup>2</sup>The amended petition is entitled "Defendant's Second Petition for Writ of Habeas Corpus (Post-Conviction)."

<sup>3</sup>Parra v. State, Docket No. 40294 (Order of Affirmance, March 3, 2003).

was untimely filed.<sup>4</sup> Moreover, appellant's petition was successive because he had previously filed a post-conviction petition for a writ of habeas corpus.<sup>5</sup> Appellant's petition was also an abuse of the writ because some of appellant's claims had never been raised in the prior proceedings.<sup>6</sup> Appellant's petition was procedurally barred absent a demonstration of good cause and prejudice.<sup>7</sup> Good cause must be an impediment external to the defense.<sup>8</sup>

In an attempt to excuse his procedural defects, appellant argued that he was required to file his petition in order to exhaust state remedies. 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.<sup>9</sup> Filing a petition for the purpose of exhaustion is not good cause. Thus, we affirm the order of the district court.

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<sup>4</sup>See NRS 34.726(1).

<sup>5</sup>See NRS 34.810(2).

<sup>6</sup>Id.


<sup>7</sup>See NRS 34.726(1); NRS 34.810(3).


<sup>8</sup>See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

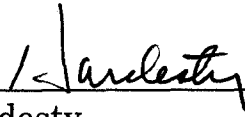
<sup>9</sup>See id.

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.<sup>10</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

Maupin  
  
\_\_\_\_\_, J.  
Gibbons

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

cc: Hon. Sally L. Loehrer, District Judge  
Julio Smith Parra  
Attorney General George Chanos/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>10</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).