

IN THE SUPREME COURT OF THE STATE OF NEVADA

FREDERICK GLENN LAND,
Appellant,

vs.

THE STATE OF NEVADA,
Respondent.

FREDERICK GLENN LAND,
Appellant,

vs.

THE STATE OF NEVADA,
Respondent.

No. 47689

FILED

JAN 11 2007

No. 48139

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Docket No. 47689 is a proper person appeal from an order of the district court denying appellant's "Writ of Deceit and Complaint for Injunctive Relief Under Common Law, at Law and Nature's Law (with a Nisi Plea)." Docket No. 48139 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; Sally L. Loehrer, Judge. We elect to consolidate these appeals for disposition.¹

On February 28, 1985, the district court convicted appellant, pursuant to a guilty plea, of three counts of attempted sexual assault. The district court sentenced appellant to serve three consecutive terms of twenty years in the Nevada State Prison. This court dismissed appellant's appeal from the judgment of conviction and sentence.² The remittitur

¹See NRAP 3(b). We have considered the record on appeal filed in Docket No. 47689 when resolving both appeals.

²Land v. State, Docket No. 16422 (Order Dismissing Appeal, December 19, 1985).

issued on January 7, 1986. Appellant unsuccessfully sought post-conviction relief.³

Docket No. 47689:

On May 15, 2006, appellant filed a proper person "Writ of Deceit and Complaint for Injunctive Relief Under Common Law, at Law and Nature's Law (with a Nisi Plea)" in the district court. On June 5, 2006, the district court denied appellant's petition. This appeal followed.

In his petition, appellant requested the district court to order that: (1) he and another prisoner be kept together and housed at the same prison; (2) he and another prisoner be transferred to a different correctional center; (3) the State return confiscated "legal material" and allow all of his "legal material" to be kept with him in his cell; (4) the State provide copies of all documents and videos that the State has regarding him and another prisoner; (5) he be granted additional time in the prison law library; and (6) his prison debt be discharged. Appellant essentially sought relief in the nature of a petition for a writ of mandamus.⁴ Our review of the record on appeal reveals that appellant had a plain, speedy, and adequate remedy at law by way of a 42 U.S.C. § 1983 federal civil rights action. Accordingly, we conclude that the district court did not abuse its discretion in denying appellant's petition.

³Land v. State, Docket Nos. 27715 and 30990 (Order Dismissing Appeals, August 27, 1998); Land v. State, Docket No. 26634 (Order Dismissing Appeal, April 28, 1995); Land v. State, Docket No. 24118 (Order Dismissing Appeal, July 9, 1993); Land v. State, Docket No. 18315 (Order Dismissing Appeal, June 23, 1988).

⁴See NRS 34.160.

Docket No. 48139:

On June 15, 2006, 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 that the petition was procedurally barred. Moreover, the State specifically pleaded laches. Appellant filed supplements to the petition and 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 September 11, 2006, the district court denied appellant's petition. This appeal followed.

Appellant filed his petition more than twenty years after this court issued the remittitur from his direct appeal. Thus, appellant's petition was untimely filed.⁵ Moreover, appellant's petition was successive because he had previously filed several post-conviction petitions for a writ of habeas corpus.⁶ To the extent that appellant raised new claims in his petition, these claims constituted an abuse of the writ.⁷ Appellant's petition was procedurally barred absent a demonstration of good cause and prejudice.⁸ Further, because the State specifically pleaded laches, appellant was required to overcome the presumption of prejudice to the State.⁹

⁵See NRS 34.726(1).

⁶See NRS 34.810(2).

⁷See id.

⁸See NRS 34.726(1); NRS 34.810(3).


⁹See NRS 34.800(2).

Appellant made no attempt to excuse his procedural defects. Accordingly, we conclude that the district court did not err in denying appellant's petition.¹⁰

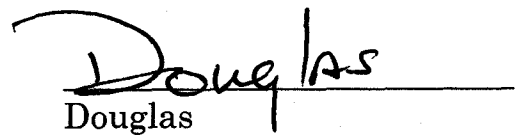
Conclusion:

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.¹¹ Accordingly, we

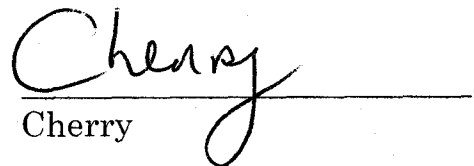
ORDER the judgments of the district court AFFIRMED.¹²



Gibbons J.



Douglas J.



Cherry J.

¹⁰To the extent that appellant is appealing from the district court's denial of his request for an appeal bond, we conclude the district court did not err in denying appellant's request. See NRS 178.4871.

¹¹See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

¹²We 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. Sally L. Loehrer, District Judge
Frederick Glenn Land
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk