

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM ARAJAKIS A/K/A WILLIAM  
SAKIE ARAJAKIS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 49349

**FILED**

SEP 07 2007

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

On December 28, 1990, the district court convicted appellant, pursuant to a jury verdict, of two counts of embezzlement. The district court adjudicated appellant a habitual criminal and sentenced him to serve two consecutive terms of life in the Nevada State Prison with the possibility of parole. This court affirmed the judgment of conviction and sentence on direct appeal.<sup>1</sup> The remittitur issued on March 30, 1993.

On March 24, 1994, appellant filed a post-conviction petition for a writ of habeas corpus in the district court with the assistance of counsel. The State opposed the petition. Pursuant to NRS 34.770, the district court declined to conduct an evidentiary hearing. On July 6, 1994, the district court orally denied the petition, and on July 13, 2007, the

---

<sup>1</sup>Arajakis v. State, 108 Nev. 976, 843 P.2d 800 (1992).

07-19714

district court entered a written order denying appellant's petition. This appeal followed.

In his petition, appellant first claimed that statistics compiled from the correctional facility in Jean indicate that two consecutive life sentences were disproportionate to appellant's offenses when compared to other prisoners in Jean serving life sentences for more serious crimes. Appellant further claimed that the district court erred in sentencing him as a habitual criminal on each offense as habitual criminal adjudication is based upon status, and thus, he should only have been sentenced to serve one term of imprisonment.

These claims should have been raised on direct appeal, and thus, these claims are subject to the procedural bar of waiver absent a demonstration of good cause and actual prejudice.<sup>2</sup> In an attempt to demonstrate good cause to litigate the claims in post-conviction, appellant claimed that the statistics necessary to support his first claim were not available while his direct appeal was pending. Appellant provided no intelligible argument for why he failed to raise the second claim on direct appeal. Our review of the record reveals that appellant failed to demonstrate that the statistics were not reasonably available to him during the pendency of the direct appeal. Thus, he did not demonstrate good cause for his failure to raise his first claim on direct appeal in order to litigate this claim in a post-conviction petition for a writ of habeas corpus. Because appellant failed to offer an intelligible good cause argument relating to his second claim, appellant necessarily failed to

---

<sup>2</sup>See NRS 34.810(1)(b).

demonstrate good cause to litigate that claim in a post-conviction petition for a writ of habeas corpus. Therefore, we conclude that the district court did not err in denying these claims.<sup>3</sup>

Next, appellant claimed that the district court did not exercise its discretion to adjudicate him a habitual criminal, or if the district court did exercise its discretion, the district court abused that discretion. On direct appeal, appellant claimed that the district court had abused its discretion in adjudicating him a habitual criminal. This court rejected this claim because the evidence showed that appellant was a career criminal who specialized in fraud with motor vehicles. Because the issue of the district court's discretion was previously litigated, the doctrine of the law of the case prevents further litigation and cannot be avoided by a more detailed and precisely focused argument made upon reflection of the prior proceedings.<sup>4</sup> Therefore, we conclude that the district court did not err in denying this claim.

Finally, appellant claimed that his habitual criminal adjudication was invalid because an information containing notice of habitual criminality was not actually filed prior to the sentencing hearing.<sup>5</sup> Although a supplemental information containing the notice of

---

<sup>3</sup>Because appellant failed to demonstrate good cause, we need not reach the issue of prejudice as appellant must satisfy both prongs set forth in NRS 34.810(1)(b) in order to litigate claims subject to waiver in a post-conviction petition for a writ of habeas corpus.

<sup>4</sup>See Hall v. State, 91 Nev. 314, 535 P.2d 797 (1975).

<sup>5</sup>In discussing this claim, appellant further asserted that the judgment of conviction was not signed by the district court. There is no  
*continued on next page . . .*

habitual criminality was filed prior to trial, appellant claimed that this information was not valid because the district court did not grant the State's motion to file the supplemental information until after the sentencing hearing. Appellant set forth this claim in his opening and reply briefs on direct appeal, and on rehearing appellant claimed that this court overlooked this claim in resolving the direct appeal. This court denied rehearing. Because this claim was considered and rejected previously by this court, we conclude that the doctrine of the law of the case prevents further litigation of this issue.<sup>6</sup> Moreover, as a separate and independent ground to deny relief, appellant failed to demonstrate that the habitual criminal count was not properly filed in the instant case.<sup>7</sup>

---

*... continued*

support in the record on appeal for this assertion as the judgment of conviction bears the district court's signature.


<sup>6</sup>See id.

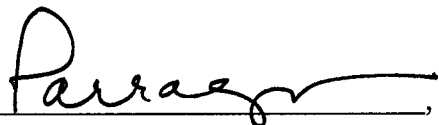
<sup>7</sup>See 1985 Nev. Stat., ch. 366, § 1, at 1026 (NRS 173.095) (setting forth that the district attorney may file a notice of habitual criminality with the court if an indictment is found charging a primary offense upon which a charge of habitual criminality may be based); NRS 173.015 (setting forth that the first pleading by the State is an information or an indictment); 1985 Nev. Stat., ch. 544, § 1, at 1643-44 (NRS 207.010) (providing that it is within the discretion of the district attorney to include a count of habitual criminality in an information or file a notice of habitual criminality if an indictment is found). Notably, the statutory scheme did not require the State to seek permission to file a notice of habitual criminality; rather, the State had the discretion to file a count of habitual criminality whereas the district court had the discretion to dismiss a count which had been included in any indictment or information. See 1985 Nev. Stat., ch. 544, § 1, at 1643-44.

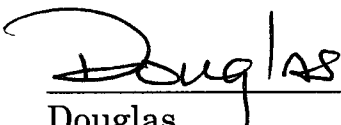
Therefore, we conclude that the district court did not err in denying this claim.

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>8</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Donald M. Mosley, District Judge  
William Arajakis  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk

---

<sup>8</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).