

IN THE SUPREME COURT OF THE STATE OF NEVADA

OSCAR WILLIAMS, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 51721

**FILED**

JAN 08 2009

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
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; Lee A. Gates, Judge.

On August 9, 1985, the district court convicted appellant, pursuant to a jury verdict, of one count of first-degree murder with the use of a deadly weapon. The district court sentenced appellant to serve two consecutive terms of life in the Nevada State Prison without the possibility of parole. This court affirmed appellant's judgment of conviction on appeal. Williams v. State, 103 Nev. 106, 734 P.2d 700 (1987). The remittitur issued on April 21, 1987.

On March 23, 1988, appellant, with the assistance of counsel, filed a petition for post-conviction relief in the district court. The State opposed the petition. On November 9, 1988, after conducting an evidentiary hearing, the district court denied appellant's petition. This court dismissed appellant's subsequent appeal. Williams v. State, Docket No. 19470 (Order Dismissing Appeal, June 29, 1989).

On May 27, 1999, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. The district court denied the petition. This

court affirmed the order of the district court on appeal. Williams v. State, Docket No. 34857 (Order of Affirmance, December 11, 2000).

On April 23, 2001, appellant, with the assistance of counsel, filed a post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. The district court denied the petition. This court affirmed the order of the district court on appeal. Williams v. State, Docket No. 39244 (Order of Affirmance, December 4, 2002).

On August 13, 2002, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. On October 29, 2002, the district court dismissed appellant's petition. This court affirmed the order of the district court on appeal. Williams v. State, Docket No. 40403 (Order of Affirmance, August 20, 2003).

On January 11, 2008, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition arguing that the petition was untimely and successive. Moreover, the State specifically pleaded laches. 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 14, 2008, the district court denied appellant's petition. This appeal followed.

In his petition, appellant claimed that the district court was without personal and subject matter jurisdiction to try him due to violations of his double jeopardy, due process, and speedy trial rights.

Appellant filed his petition more than 20 years after this court issued the remittitur from his direct appeal. Thus, appellant's petition

was untimely filed. See NRS 34.726(1).<sup>1</sup> Moreover, appellant's petition was successive because he had previously filed several post-conviction petitions. See NRS 34.810(2). Further, appellant's petition constituted an abuse of the writ as his claims were new and different from those claims raised in his previous post-conviction petitions. See id. Appellant's petition was procedurally barred absent a demonstration of good cause and prejudice. See NRS 34.726(1); NRS 34.810(3). Further, because the State specifically pleaded laches, appellant was required to overcome the presumption of prejudice to the State. See NRS 34.800(2).

In an attempt to excuse his procedural defects, appellant argued that procedural bars do not apply to jurisdictional claims.

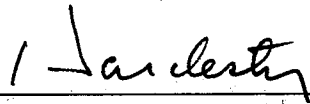
Based upon our review of the record on appeal, we conclude that the district court did not err in denying appellant's petition as procedurally defective. Appellant failed to demonstrate that an impediment external to the defense excused the procedural defects. See Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003); Lozada v. State, 110 Nev. 349, 353, 871 P.2d 944, 946 (1994). Appellant's petition is subject to the procedural bars in NRS 34.726(1) and NRS 34.810(2). Further, appellant previously pursued multiple post-conviction petitions and appellant failed to demonstrate that he could not have raised these claims in any of those petitions. See Hathaway, 119 Nev. at 252-253, 71 P.3d at 506. Finally, appellant failed to overcome the presumption of prejudice to the State. Therefore, we affirm the order of the district court denying the petition as procedurally barred and barred by laches.

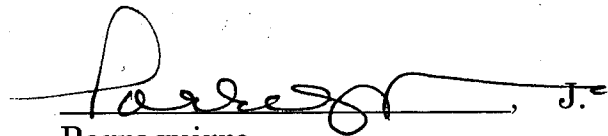
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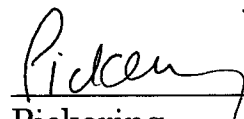
<sup>1</sup>We note that the petition was untimely from the effective date of NRS 34.726. See 1991 Nev. Stat., ch. 44, § 5, at 75-6.

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

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

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

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

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

cc: Hon. Lee A. Gates, District Judge  
Oscar Williams, Jr.  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk

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<sup>2</sup>We 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.