

IN THE SUPREME COURT OF THE STATE OF NEVADA

CREAD LYONS, JR.,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 34837

**FILED**

**JUL 09 2001**

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus.

On May 17, 1993, the district court convicted appellant, pursuant to a jury trial, of first degree murder. The district court sentenced appellant to serve a term of life in the Nevada State Prison without the possibility of parole. This court dismissed appellant's appeal from his judgment of conviction and sentence.<sup>1</sup> The remittitur issued on February 14, 1995.

Appellant filed a petition for a writ of mandamus in the district court. The district court denied the petition. This court dismissed his subsequent untimely appeal for lack of jurisdiction.<sup>2</sup>

Appellant then filed a proper person post-conviction petition for a writ of habeas corpus in the district court.

<sup>1</sup>Lyons v. State, Docket No. 24705 (Order Dismissing Appeal, January 24, 1995).

<sup>2</sup>Lyons v. State, Docket No. 30520 (Order Dismissing Appeal, November 7, 1997).

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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. The district court summarily denied the petition. This court dismissed appellant's appeal.<sup>3</sup>

On June 30, 1999, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition and appellant filed a reply. 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 30, 1999, the district court denied 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.<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 procedurally barred absent a demonstration of good cause and prejudice.<sup>6</sup>

In an attempt to excuse his procedural defects, appellant argued that his counsel's ineffectiveness established good cause to excuse the procedural bars. We conclude that the district court did not err in denying

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<sup>3</sup>Lyons v. State, Docket Nos. 28031, 28490 (Order Dismissing Appeals, October 2, 1998).

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

<sup>5</sup>See NRS 34.810(1)(b)(2); NRS 34.810(2).

<sup>6</sup>See NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3).

appellant's petition. Appellant failed to establish good cause to excuse the procedural bars.<sup>7</sup>

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.<sup>9</sup>

Young, J.  
Young  
Leavitt, J.  
Leavitt  
Becker, J.  
Becker

cc: Hon. John S. McGroarty, District Judge  
Attorney General  
Clark County District Attorney  
Cread Lyons, Jr.  
Clark County Clerk

<sup>7</sup>See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

<sup>8</sup>See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975), cert. denied, 423 U.S. 1077 (1976).

<sup>9</sup>We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.