

IN THE SUPREME COURT OF THE STATE OF NEVADA

OSCAR WILLIAMS, JR.,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 34857

FILED

DEC 11 2000

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

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant's petition for a writ of habeas corpus. On appeal, Oscar Williams, Jr. contends that the district court misinterpreted the argument contained in his petition, and therefore erred in concluding that his petition was barred on law-of-the-case grounds. Assuming the district court so erred, Williams further contends that the writ should have been granted because his petition raises a meritorious argument challenging the trial court's jurisdiction. We disagree.

First, Williams argues that the district court misapplied the law-of-the-case doctrine because the issue raised in his petition was not raised in his direct appeal, and therefore was never adjudged by this court. We agree. After examining Williams's briefs from his direct appeal and his current writ petition, we conclude that the issue of whether the district court judge exceeded his jurisdiction by violating District Court Rule 18(1) and Eighth Judicial District Court Rule 7.10(b)¹ was not considered by this court

¹The district court rules are substantively identical and provide that "[w]hen any district judge shall have entered upon the trial or hearing of any cause, proceeding or motion, or made any ruling, order or decision therein, no other judge shall or may do any act or thing in or about such cause,

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in Williams's original appeal. See Valerio v. State, 112 Nev. 383, 386-87, 915 P.2d 874, 876 (1996) (concluding that claims raised in petitioner's post-conviction petition that had been raised on direct appeal and decided by this court constitute the law of the case).

Next, Williams argues that the issue of whether Judge Pavlikowksi exceeded his jurisdiction by violating DCR 18(1) and EJDRC 7.10(b) is one raising the district court's jurisdiction, and thus is capable of being raised at any time. We disagree. Because jurisdiction lies with the district court, not with the individual department judges, a violation of the internal rules governing judges does not implicate jurisdiction. See Nev. Const. art. 6 § 6 ("The District Courts in the several Judicial Districts of this State have original jurisdiction in all cases excluded by law from the original jurisdiction of justices' courts.") (emphasis added).² Accordingly, because the issue presented in Williams's petition for writ of habeas corpus is nonjurisdictional and could have been raised on his direct appeal, Williams's petition must be dismissed under NRS 34.810(1)(b)(2).³

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proceeding or motion, unless upon the written request of the judge who shall have first entered upon the trial or hearing of such cause, proceeding or motion." DCR 18(1).

²Moreover, we conclude that our holding in Rohlifing v. Second Judicial District Court, 106 Nev. 902, 803 P.2d 659 (1990), is not implicated under the facts here. See id. at 907, 803 P.2d at 663 (because district court judges have coextensive and concurrent jurisdiction under NRS 3.220, they lack jurisdiction to review and reverse the actions of other district court judges). In this case, we conclude that Judge Pavlikowski did not impermissibly review or reverse Judge O'Donnell's previous actions in excess of his jurisdiction.

³NRS 34.810(1) provides:


The court shall dismiss a petition if the court determines that:

. . . .

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Although we conclude that the district court erred in misinterpreting the issue presented in Williams's petition for writ of habeas corpus, we hold that the error is harmless because the petition should have been dismissed under NRS 34.810(1)(b)(2).⁴ Accordingly, we hereby

AFFIRM the order of the district court.

 _____, C.J.
Rose

 _____, J.
Young

 _____, J.
Becker

cc: Ronald D. Parraguirre, District Judge
Attorney General
Clark County District Attorney
Goodman Chesnoff & Keach
Clark County Clerk

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(b) The petitioner's conviction was the result of a trial and the grounds for the petition could have been:

.....
(2) Raised in a direct appeal or a prior petition for a writ of habeas corpus or post-conviction relief; or

.....

⁴Although we conclude that the issue is nonjurisdictional and therefore disposed of by operation of NRS 34.810(1), we alternatively conclude that Judge Pavlikowski did not violate District Court Rule 18(1) and Eighth Judicial District Court Rule 7.10(b). When Judge O'Donnell dismissed the original information filed against Williams, the State's proceedings against Williams ended. Further, the second information filed by the State was not legally connected to the first simply because it involved identical charges. Therefore, the provisions of DCR 18(1) and EJDCR 7.10(b) were not violated. See Tellis v. Sheriff, 85 Nev. 557, 459 P.2d 364 (1969) ("The mere fact that the same offense was charged in the indictment that had previously been charged in the information does not establish any legal connection between the two pleadings. The dismissal of the information put an end to it as effectively as though it had never been filed.") (quoting People v. MacCagnan, 276 P.2d 679 (Cal. Ct. App. 1954)).