

IN THE SUPREME COURT OF THE STATE OF NEVADA

LLOYD STEVEN BEVERLY, JR. A/K/A
LLOYD S. BEVERLY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55482

FILED

JUN 09 2010

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.¹ Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

Appellant filed his petition on August 25, 2009, almost nine years after this court issued the remittitur from direct appeal on October 17, 2000. Beverly v. State, Docket No. 35526 (Order Dismissing Appeal, September 21, 2000). Thus, appellant's petition was untimely filed.² See NRS 34.726(1). Appellant's petition was successive, and the petition was an abuse of the writ because he raised new and different claims from those

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

²Appellant's petition was also untimely from entry of the amended judgment of conviction correcting clerical errors in the original judgment of conviction. See Sullivan v. State, 120 Nev. 537, 540-41, 96 P.3d 761, 764 (2004); see also NRS 176.565 (providing clerical errors may be corrected by the court at any time).

litigated in a prior habeas petition.³ See NRS 34.810(1)(b)(2); NRS 34.810(2). Appellant's petition was procedurally barred absent a demonstration of good cause and prejudice. See NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3).

Appellant's petition was a challenge to the validity of the judgment of conviction and thus NRS 34.726 and NRS 34.810 apply to this petition.⁴ NRS 34.724(2)(b). Appellant did not provide any good cause argument for filing a late and successive petition.⁵ Appellant's claim that the district court lacked subject matter jurisdiction because the criminal complaint was filed in the justice court was patently without merit and does not provide good cause. Nev. Const. art. 6, § 8 (setting forth that the Legislature shall determine the limits of the criminal jurisdiction of the justices of the peace); NRS 4.370(3) (providing that the justice courts have jurisdiction over "all misdemeanors and no other criminal offenses except as otherwise provided by specific statute"); NRS 171.196 (providing for a

³Beverly v. State, Docket No. 38267 (Order of Affirmance, August 21, 2002). Appellant has also challenged his judgment of conviction in a petition for a writ of mandamus and motions to correct or modify sentence. Beverly v. State, Docket No. 42090 (Order of Affirmance, April 22, 2004); Beverly v. State, Docket No. 45547 (Order of Affirmance, September 16, 2005); Beverly v. State, Docket No. 46547 (Order of Affirmance, March 27, 2006); Beverly v. State, Docket No. 47002 (Order of Affirmance, July 19, 2006); Beverly v. State, Docket No. 48462 (Order of Affirmance, May 14, 2007); Beverly v. State, Docket No. 50029 (Order of Affirmance, April 22, 2008).

⁴Appellant's petition did not implicate the First Amendment. See NRS 34.185.

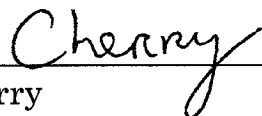
⁵This court's decision in Griffin v. State, 122 Nev. 737, 137 P.3d 1165 (2006), would not provide good cause in the instant case because appellant waited more than three years to file his petition after the Griffin decision.

preliminary examination in the justice court); NRS 171.206 (providing that the magistrate shall bind a defendant over to the district court if from the evidence presented there is probable cause to believe that an offense has been committed and the defendant has committed it); NRS 173.035(1), (3) (providing for the filing of an information in the district court when a defendant has been bound over after a preliminary examination before a justice of the peace). Therefore, we conclude that the district court did not err in denying the petition.


Appellant's petition raised frivolous claims challenging the judgment of conviction that are not warranted by the record or the law. Appellant has further filed a number of frivolous actions in the courts challenging his judgment of conviction, which waste judicial resources. Appellant is cautioned that he may be referred for the forfeiture of credits for the filing of frivolous claims. NRS 209.451.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Elissa F. Cadish, District Judge
Lloyd Steven Beverly Jr.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk