

IN THE SUPREME COURT OF THE STATE OF NEVADA

DALE DALLAS CRAIG,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56377

DALE DALLAS CRAIG,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56378

FILED

DEC 09 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

These are proper person appeals from orders of the district court denying appellant's proper person post-conviction petitions for a writ of habeas corpus.¹ Fifth Judicial District Court, Nye County; Robert W. Lane, Judge. We elect to consolidate these appeals for disposition. See NRAP 3(b).

Appellant filed his petitions on January 1, 2010, nearly three years after issuance of the remittitur on direct appeal on February 20,

¹These appeals have 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).

2007.² Thus, appellant's petitions were untimely filed. See NRS 34.726(1). Appellant's petitions were also successive because he had previously filed a post-conviction petition for a writ of habeas corpus, and they constituted an abuse of the writ as he raised claims new and different from those raised in his previous petition.³ See NRS 34.810(1)(b)(2); NRS 34.810(2). Appellant's petitions were therefore procedurally barred absent demonstrations of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3).

Appellant first argued that he had good cause to excuse the procedural defects because he first learned on September 15, 2007, that his direct appeal had been resolved. However, appellant waited over two years to file the instant petition and thus failed to demonstrate good cause for the entire length of the delay. Moreover, appellant offered no explanation for why he did not raise this claim in his first petition filed March 7, 2008.

Appellant also argued that he had good cause to excuse the procedural defects because he was denied access to the prison law library and the assistance of persons trained in the law. Appellant failed to demonstrate impediments external to the defense. Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). Further, as appellant previously filed a proper person petition, the prison's alleged failure to

²Craig v. State, Docket Nos. 47149, 47150 (Order Affirming in Part and Remanding, January 24, 2007).

³Craig v. State, Docket No. 51975 (Order of Affirmance, July 9, 2009) (attacking in one petition both judgments of conviction that also underlie the instant appeal).

provide access to the library or to persons trained in the law did not provide good cause. Phelps v. Director, Prisons, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988); see also Lewis v. Casey, 518 U.S. 343, 351-353 (1996).

For the foregoing reasons, we conclude that the district court did not err in denying appellant's petitions as procedurally barred. Accordingly, we

ORDER the judgments of the district court AFFIRMED.

Cherry J.
Cherry

Saitta J.
Saitta

Gibbons J.
Gibbons

cc: Hon. Robert W. Lane, District Judge
Dale Dallas Craig
Attorney General/Carson City
Nye County District Attorney/Pahrump
Nye County Clerk