

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM MITCHELL BELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57831

WILLIAM MITCHELL BELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58082

FILED

SEP 15 2011

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

ORDER OF AFFIRMANCE AND DISMISSING APPEAL

These are proper person appeals from orders of the district court dismissing and denying a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Valorie Vega, Judge. We elect to consolidate these appeals for disposition. See NRAP 3(b).

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 briefings are unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

Docket No. 57831

Appellant filed his petition on November 20, 2010, more than three years after the judgment of conviction was filed on February 13, 2007.² Thus, appellant's petition was untimely filed. See NRS 34.726(1). Appellant's petition was procedurally barred absent a demonstration of cause for the delay and undue prejudice. See id.

First, appellant claimed he had good cause to overcome the procedural bar because he was illiterate and a paranoid schizophrenic. These reasons did not demonstrate good cause for the filing of an untimely and successive post-conviction petition. See Phelps v. Director, Prisons, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988).

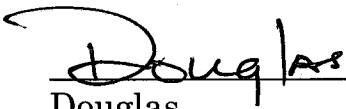
Next, appellant claimed that he was actually innocent because the police and medical reports show that the shooting was accidental. This information was available prior to entry of appellant's plea. Appellant did not demonstrate actual innocence because he failed to show that "it is more likely than not that no reasonable juror would have convicted him in light of . . . new evidence." Calderon v. Thompson, 523 U.S. 538, 559 (1998) (quoting Schlup v. Delo, 513 U.S. 298, 327 (1995)); see also Pellegrini v. State, 117 Nev. 860, 887, 34 P.3d 519, 537 (2001); Mazzan v. Warden, 112 Nev. 838, 842, 921 P.2d 920, 922 (1996); Bousley v. United States, 523 U.S. 614, 624 (1998). We therefore conclude that the district court did not err in dismissing appellant's petition.

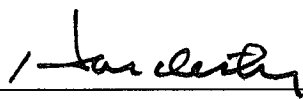
²No direct appeal was taken.

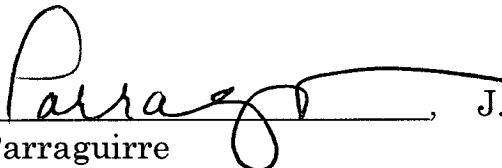
Docket No. 58082

The district court filed a second order denying appellant's November 20, 2010, petition and appellant filed a notice of appeal from the second order. Therefore, this is the second appeal of the district court's decision to deny appellant's petition. Because this court determined above that the petition was properly dismissed as procedurally barred, we order this appeal dismissed. Accordingly, we

ORDER the judgment of the district court in Docket No. 57831 AFFIRMED and the appeal in Docket No. 58082 DISMISSED.³


_____, J.
Douglas


_____, J.
Hardesty


_____, J.
Parraguirre

³We 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.

cc: Hon. Valorie Vega, District Judge
William Mitchell Bell
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk