

IN THE SUPREME COURT OF THE STATE OF NEVADA

RONALD CURTIS WILLIAMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59389

FILED

MAY 09 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *H. Angers*
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; Joseph T. Bonaventure, Senior Judge.

Appellant filed his petition on April 4, 2011, over four years after this court's July 25, 2006, issuance of the remittitur from his direct appeal. See Williams v. State, Docket No. 45904 (Order of Affirmance, June 29, 2006). Appellant's petition was therefore untimely filed. See NRS 34.726(1). Appellant's petition was also successive because his coercion claim was raised in a previous post-conviction petition for a writ

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).

of habeas corpus.² NRS 34.810(2). Appellant's petition was therefore procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(3).

First, appellant claimed that he had good cause to overcome the procedural defects because the instant petition was timely from this court's August 16, 2010, issuance of the remittitur from his direct appeal from an amended judgment of conviction. See Williams v. State, Docket No. 55567 (Order Dismissing Appeal, June 9, 2010). However, that appeal was dismissed for lack of jurisdiction and was thus irrelevant in calculating the one-year time limit imposed by NRS 34.726(1). Cf. Dickerson v. State, 114 Nev. 1084, 1087-88, 967 P.2d 1132, 1133-34 (1998).

Second, appellant claimed that he had good cause to overcome the procedural defects because an amended judgment of conviction was filed on February 11, 2010.³ Appellant failed to demonstrate good cause

²Williams v. State, Docket No. 49648 (Order Affirming in Part, Reversing in Part and Remanding, June 13, 2008). The district court entered an amended judgment of conviction, the appeal of which this court subsequently dismissed. Williams v. State, Docket No. 55567 (Order Dismissing Appeal, June 9, 2010).

³We note that two documents entitled "amended judgment of conviction" were filed on two different days: February 5, 2010, and February 11, 2010. Although presented in different formats, the ultimate charges of which appellant was found guilty and the sentences imposed are the same in both documents.

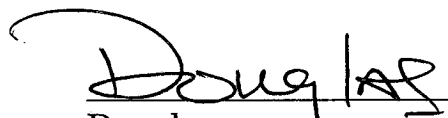
because the instant petition was filed over a year after the filing of the amended judgment of conviction and was thus still untimely. NRS 34.726(1). Moreover, the instant petition did not challenge the amendments. See Sullivan v. State, 120 Nev. 537, 541, 96 P.3d 761, 764 (2004).


Finally, appellant claimed that the instant petition is based on new evidence discovered after the evidentiary hearing on his prior petition and that he has suffered a fundamental miscarriage of justice. A petitioner may overcome procedural defects by presenting new evidence of his actual innocence such that denying consideration of his substantive claims would result in a fundamental miscarriage of justice by showing that “it is more likely than not that no reasonable juror would have convicted him in light of the 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). Appellant presented as new evidence a December 16, 2010, newspaper article referencing a series of 2007 newspaper articles in which various former clients of trial counsel complained that counsel told them he would help the prosecutors obtain a conviction if the clients did not plead guilty. Notably, appellant did not allege below that counsel levied such a threat against him. Moreover, actual innocence means factual, not legal

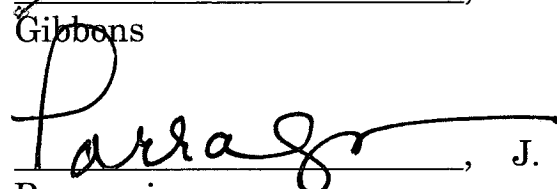
innocence, Bousley v. U.S., 523 U.S. 614, 623 (1998), and appellant in his petition did not deny stabbing the victim, but rather claimed that the victim was the initial aggressor. We therefore conclude that appellant failed to demonstrate that he suffered a fundamental miscarriage of justice.

For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.⁴


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

⁴We 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: Chief Judge, Eighth Judicial District Court
Hon. Joseph T. Bonaventure, Senior Judge
Ronald Curtis Williams
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk