

IN THE SUPREME COURT OF THE STATE OF NEVADA

RANDY MAURICE BRIDGES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 64000

FILED

OCT 15 2014

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

ORDER OF AFFIRMANCE

This is an appeal from an order dismissing a post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

After a jury found appellant guilty in 1989, appellant fled the country prior to being sentenced. Appellant was finally apprehended in 2010, and a judgment of conviction was filed on August 2, 2010. Before sentencing, it was learned that there were no remaining transcripts or notes from his jury trial because they had been destroyed pursuant to NRS 656.335 ("A court reporter shall retain his or her notes, whether or not transcribed, for 8 years if they concern any matter subject to judicial review."). Appellant challenged his conviction on appeal, arguing he was entitled to a new trial because the transcripts were missing. This court disagreed, finding that appellant did not file a motion for new trial in the district court and that the transcripts were missing because appellant fled the jurisdiction.

On May 9, 2012, appellant filed a timely post-conviction petition for a writ of habeas corpus. In his petition and supplement, he raised claims of ineffective assistance of trial and appellate counsel. The State filed a motion to dismiss arguing that the petition should be

dismissed based on laches and the fugitive disentitlement doctrine. After an evidentiary hearing regarding laches and the fugitive disentitlement doctrine, the district court dismissed the petition on the merits and based on the fugitive disentitlement doctrine. This appeal followed.

The fugitive disentitlement doctrine allows the dismissal of an appeal if a defendant flees the jurisdiction before or after sentencing but before the time for filing a direct appeal has passed if the fleeing somehow affects the ability of the court to hear the appeal. *Ortega-Rodriguez v. United States*, 507 U.S. 234, 249 (1993); *Bellows v. State*, 110 Nev. 289, 292, 871 P.2d 340, 342 (1994). While the instant case does not involve a direct appeal, the fugitive disentitlement doctrine still applies to those claims that challenge the validity of the verdict.¹ In *Bellows*, this court held that missing transcripts affected the ability of the court to hear the appeal and dismissed the appeal. The instant case is almost identical to *Bellows*. There are no transcripts. “When an escape results in the loss of a trial transcript, ‘[n]o persuasive reason exists why [the court] should proceed to adjudicate the merits of a criminal case after the convicted defendant . . . escapes from the restraints placed upon him pursuant to the conviction.’” *Id.* at 293, 871 P.2d at 343 (citing *Molinero v. United States*, 396 U.S. 365 (1970)).

¹The district court erred in reaching the merits of most of the claims raised by appellant in his petition because they ultimately challenged the jury verdict. While claims regarding sentencing and ineffective-assistance-of-appellate-counsel may have been proper for this petition, appellant did not raise any claims regarding sentencing and his ineffective assistance of appellate counsel claims ultimately challenged the verdict. Further, we note that appellant failed to demonstrate that there was a conflict of interest between him and trial counsel because appellant failed to allege specific facts that, if true, would entitle him to relief. See *Hargrove v. State*, 100 Nev. 498, 686 P.2d 222 (1984).

We note that appellant was convicted 25 years ago. There was testimony presented at the limited evidentiary hearing that one of the detectives passed away, the doctor who examined the victim is retired and elderly, and the victim lives out of state and does not want to participate in a new trial. Further, with the passage of time comes faded memories and lost evidence. It is clear that the lack of transcripts was the fault of appellant and appellant failed to even attempt to reproduce a transcript, only claiming that it might be possible. We note that appellant acknowledged that the procedure in *Bellows* for obtaining a new trial based on lost transcripts was the correct course of action to take in this case, however, appellant has still failed to file the requisite motion for new trial or follow the procedures set forth in *Bellows*. 110 Nev. at 292, 871 P.2d at 342. Therefore, we conclude that the district court did not err in dismissing the petition, and we

ORDER the judgment of the district court AFFIRMED.²

Pickering, J.
Pickering

Parraguirre, J.
Parraguirre

Saitta, J.
Saitta

²On October 2, 2014, this court received a proper person motion for leave to file a supplemental reply brief. Appellant is represented by counsel and has not asked for counsel to be discharged or to have counsel substituted in at his own expense. See NRAP 46(d). Therefore, we direct the clerk of the court to file the motion, and we order the motion denied.

cc: Hon. Patrick Flanagan, District Judge
Edward T. Reed
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk