

IN THE SUPREME COURT OF THE STATE OF NEVADA

JEFFREY LOGAN JONES,

No. 36003

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

DEC 05 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's third post-conviction petition for a writ of habeas corpus.

On January 29, 1988, the district court convicted appellant, pursuant to a guilty plea, of one count of sexual assault with the use of a deadly weapon and one count of robbery with the use of a deadly weapon. The district court sentenced appellant to serve two consecutive terms of life with the possibility of parole and two consecutive terms of fifteen years in the Nevada State Prison, the latter terms to be served consecutively to the former terms. Appellant did not file a direct appeal.

On September 13, 1988, appellant filed a proper person petition for post-conviction relief pursuant to former NRS 177.315.¹ The district court dismissed appellant's petition and this court dismissed appellant's subsequent appeal.²

On March 4, 1997, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The district court denied the petition. Appellant appealed to this court. While his 1997 appeal was pending in this court, appellant filed another proper person petition for a writ of habeas corpus in the district court. The

¹NRS 177.315 was repealed effective January 1, 1993.

²See Jones v. State, Docket No. 20681 (Order Dismissing Appeal, February 20, 1990).

district court also denied that petition. Appellant appealed. On September 24, 1999, we consolidated and dismissed the appeals.³

On January 10, 2000, appellant filed the instant proper person post-conviction petition for a writ of habeas corpus challenging his certification to adult court.⁴ The State opposed the petition arguing that appellant's petition was untimely and successive and, therefore, procedurally barred. Moreover, the State specifically pleaded laches. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On August 12, 2000, the district court denied appellant's petition. This appeal followed.

Appellant filed his petition more than thirteen years after entry of the judgment of conviction. Thus, appellant's petition was untimely filed.⁵ In addition, appellant's petition was successive because he had previously filed three post-conviction petitions.⁶ Appellant's petition was procedurally barred absent a demonstration of good cause and prejudice.⁷ Further, because the State specifically pleaded laches, appellant was required to overcome the presumption of prejudice to the State.⁸

Based upon our review of the record on appeal, we conclude that the district court properly denied appellant's petition as procedurally barred. Appellant did not offer any viable excuse for his delay in filing his petition, or for his failure to raise this claim in his first petition. Instead, appellant first argued that due to his own incompetence he did not effectively present his certification challenge in his previous petitions. A

³Jones v. State, Docket Nos. 30596, 32520 (Order Dismissing Appeals, September 24, 1999).

⁴We note, as we did in Docket No. 32520, that appellant attempted to frame this argument as a challenge to the district court's subject matter jurisdiction. However, our review of appellant's argument reveals that appellant was in fact challenging the propriety of his certification to adult court.

⁵See NRS 34.726(1).

⁶See NRS 34.810(2).

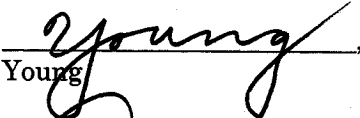
⁷See NRS 34.726(1); NRS 34.810(3).

⁸See NRS 34.800(2).

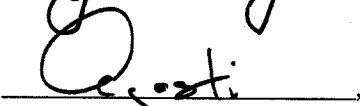
claim of legal ignorance or general incompetence does not establish good cause for failing to timely file a post-conviction petition, for re-raising a claim for post-conviction relief or for failing to present a claim in a previous petition.⁹ Appellant also argued that his adult court certification was faulty and subjected him to an unjust incarceration amounting to a substantial injustice. This does not establish good cause either. Appellant must demonstrate that some impediment external to the defense prevented him from complying with the procedural rule that he violated.¹⁰ Appellant's contention that his certification to adult court is faulty is not external to his defense; it is his defense. Because appellant failed to demonstrate good cause to excuse his procedural defects and failed to rebut the presumption of prejudice to the State, the district court did not err in dismissing appellant's petition.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.¹¹ Accordingly, we


ORDER the judgment of the district court AFFIRMED.¹²



Young J.



Agosti J.



Leavitt J.

cc: Hon. Donald M. Mosley, District Judge
Attorney General/Carson City
Clark County District Attorney
Jeffrey Logan Jones
Clark County Clerk

⁹Phelps v. Director, Prisons, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988).

¹⁰Lozada v. State, 110 Nev. 349, 353, 871 P.2d 944, 946 (1994).

¹¹See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

¹²We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.