IN THE SUPREME COURT OF THE STATE OF NEVADA

DAIMON MONROE A/K/A DAIMON HOYT, Appellant, vs. THE STATE OF NEVADA, Respondent.	No. 36333
DAIMON MONROE HOYT, Appellant, vs. THE STATE OF NEVADA, Respondent.	No. 36415

FILED
DEC 18 2001
JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE IN DOCKET NO. 36333 AND ADMINISTRATIVELY CLOSING DOCKET NO. 36415

These are proper person appeals from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus.

On January 9, 1997, the district court convicted appellant, pursuant to an Alford plea, of one count of possession of a firearm by an ex-felon and one count of failure to stop when required by signal of police officer.[1] The district court sentenced appellant to serve two concurrent terms of a minimum of thirteen months to a maximum of seventy-two months in the Nevada State Prison. This court dismissed appellant's untimely appeal from his judgment of conviction and sentence for lack of jurisdiction.[2]

[1]North Carolina v. Alford, 400 U.S. 25 (1970).

[2]Monroe-Hoyt v. State, Docket No. 30754 (Order Dismissing Appeal, November 12, 1997).

01-21282

On October 22, 1997, appellant filed a proper person post-conviction petition for a writ of habeas corpus. The State opposed the petition. On December 23, 1997, the district court denied appellant's petition. Appellant filed a timely notice of appeal that was docketed in this court in Docket No. 31696. On June 10, 1999, the district court entered an amended findings of fact, conclusions of law and order clarifying the claims raised below pursuant to an order of this court. This court subsequently dismissed the appeal.[3]

On April 13, 1999, appellant filed a second proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. On July 7, 1999, the district court denied the petition. Appellant did not file an appeal from this decision.

On April 13, 2000, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. 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 June 16, 2000, the district court denied appellant's petition. These appeals followed.[4]

Appellant filed his petition more than three years after entry of the judgment of conviction. Thus, appellant's petition was untimely filed.[5] Moreover, appellant's petition was successive because he had previously filed habeas corpus petitions.[6] Appellant's petition was procedurally barred absent a demonstration of good cause and prejudice.[7]

In an attempt to excuse his procedural defects, appellant argued that he lacked experience in law and procedures. Appellant

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[3]Hoyt v. State, Docket No. 31696 (Order Dismissing Appeal, August 25, 1999).

[4]Docket No. 36333 is a proper person appeal from the district court's oral decision to deny his habeas corpus petition. Docket No. 36415 is a proper person appeal from the district court's written order denying his habeas corpus petition. Because appellant filed two separate notices of appeal, the clerk of this court inadvertently opened two separate cases. We direct the clerk of this court to administratively close Docket No. 36415.

[5]See NRS 34.726(1).

[6]See NRS 34.810(2).

[7]See NRS 34.726(1); NRS 34.810(3).

further accused the State of changing the record. Although appellant's particular argument is rather difficult to discern, it appears that he is upset that the district court entered an amended findings of fact and conclusions of law pursuant to this court's order in his appeal in Docket No. 31696. Finally, appellant argued that he was actually innocent.

Based upon our review of the record on appeal, we conclude that the district court did not err in determining that appellant failed to demonstrate adequate cause to excuse his procedural defects. This court has held that good cause must be an impediment external to the defense.[8] Inexperience in the law and procedures does not constitute good cause.[9] Further, appellant's complaint about the amended findings of fact and conclusions of law is wholly without merit. The district court entered the June 10, 1999 amended findings of fact and conclusions of law because the December 23, 1997 written order contained reference to a supplement and two claims that were never filed in the district court and thus were not part of the record on appeal. These references appeared to have been mistakenly included in the written order prepared by the State. Appellant was not prejudiced by entry of the amended findings of fact and conclusions of law because the district court's June 10, 1999 order resolved every claim that had been properly filed in the district court and removed reference to the supplement and claims that were not filed in the district court. Thus, this complaint cannot serve as cause to excuse his procedural defects. Appellant did not demonstrate that failure to consider his petition would result in a fundamental miscarriage of justice.[10] Therefore, we affirm the order of the district court.

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[8]Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

[9]See Phelps v. Director, Prisons, 104 Nev. 656, 764 P.2d 1303 (1988) (limited intelligence and reliance on inmate law clerks who are untrained in the law does not constitute good cause for delay in filing petition).

[10]See Mazzan v. Warden, 112 Nev. 838, 842, 921 P.2d 920, 922 (1996) (stating that a petitioner may be entitled to review of defaulted claims if failure to review the claims would result in a fundamental miscarriage of justice).

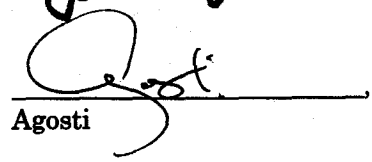
(O)-4892

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.

C.J.
Maupin

J.
Young



J.
Agosti

cc: Hon. Jeffrey D. Sobel, District Judge
Attorney General/Carson City
Clark County District Attorney
Daimon Monroe
Clark County Clerk

[11]See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975), cert. denied, 423 U.S. 1077 (1976).