

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER BROWN JOSEPH,

No. 36649

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

DEC 20 2001

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

ORDER OF AFFIRMANCE

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

On September 24, 1997, the district court convicted appellant, pursuant to a guilty plea, of one count of trafficking in a controlled substance. The district court sentenced appellant to serve a term of ten (10) to twenty-five (25) years in the Nevada State Prison, and to pay a fine of five hundred thousand dollars (\$500,000.00). Appellant did not file a direct appeal.

On July 13, 1998, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. The district court, pursuant to NRS 34.750 and 34.770, appointed counsel and held an evidentiary hearing. On July 7, 1999, the district court summarily denied appellant's petition, and on September 7, 1999, the district court entered specific findings of fact and conclusions of law denying the petition. This court dismissed appellant's appeal from that order.¹

On June 22, 2000, appellant filed a post-conviction petition for a writ of habeas corpus in the district court. 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 2, 2000, the district court denied appellant's petition. This appeal followed.

¹Joseph v. State, Docket Nos. 34593, 34825 (Order Dismissing Appeal, March 30, 2000).

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Appellant filed his petition approximately three (3) years after entry of the judgment of conviction. Thus, appellant's petition was untimely filed.² Moreover, appellant's petition was successive because he had previously filed a petition for writ of habeas corpus.³ Appellant's petition was procedurally barred absent a demonstration of good cause and prejudice.⁴ Appellant failed to demonstrate good cause and prejudice to excuse his procedural defects.⁵ Therefore, we conclude that the district court did not err in denying 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.⁶ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁷



Young J.



Agosti J.



Leavitt J.

cc: Hon. Brent T. Adams, District Judge
Attorney General/Carson City
Washoe County District Attorney
Christopher Brown Joseph
Washoe County Clerk

²See NRS 34.726(1).

³See NRS 34.810(2).

⁴See NRS 34.726(1); NRS 34.810(3).

⁵See Lozada v. State, 110 Nev. 349, 871 P. 2d 944 (1994).

⁶See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁷We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.