

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROGER WILLIAM WORKMAN,

No. 37282

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

FILED

NOV 14 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
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 May 17, 1993, the district court convicted appellant, pursuant to a nolo contendere plea,¹ of one count of sexual assault. The district court sentenced appellant to serve a term of life with the possibility of parole after actually serving five years in the Nevada State Prison. This court dismissed appellant's untimely appeal from his judgment of conviction and sentence for lack of jurisdiction.²

On June 22, 1993, 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 appointed counsel to represent appellant and conducted an evidentiary hearing. On March 8, 1994, the district court denied appellant's petition. This court dismissed appellant's appeal from the district court's denial.³

¹Appellant pleaded guilty pursuant to North Carolina v. Alford, 400 U.S. 25 (1970). Under Nevada law, "whenever a defendant maintains his or her innocence but pleads guilty pursuant to Alford, the plea constitutes one of nolo contendere." State v. Gomes, 112 Nev. 1473, 1479, 930 P.2d 701, 705 (1996).

²Workman v. State, Docket No. 33565 (Order Dismissing Appeal, February 10, 1999).

³Workman v. State, Docket Nos. 26083, 26084 (Order Dismissing Appeals, February 10, 1998).

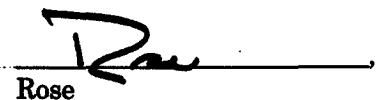
On August 24, 2000, appellant filed a second proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. On November 9, 2000, the district court denied appellant's petition. This appeal followed.

Appellant filed his petition more than seven years after entry of the judgment of conviction. Thus, appellant's petition was untimely filed.⁴ Moreover, appellant's petition was successive because he had previously filed a petition for a writ of habeas corpus on the same grounds.⁵ Appellant's petition was procedurally barred absent a demonstration of good cause and prejudice.⁶ Appellant made no attempt to excuse his procedural defects. Therefore, 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.⁷ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


Shearing J.


Rose J.


Becker J.

cc: Hon. Lee A. Gates, District Judge
Attorney General
Clark County District Attorney
Roger William Workman
Clark County Clerk

⁴See NRS 34.726(1).

⁵See NRS 34.810(2).

⁶See NRS 34.726(1); NRS 34.810(3).

⁷See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).