

IN THE SUPREME COURT OF THE STATE OF NEVADA

RONALD DUCKSWORTH, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 38732

FILED

APR 09 2003

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
DEPUTY CLERK

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 December 13, 1993, the district court convicted appellant, pursuant to a jury verdict, of two counts of murder with the use of a deadly weapon, two counts of first degree kidnapping with the use of a deadly weapon, and one count each of burglary with the use of a deadly weapon, sexual assault with the use of a deadly weapon, and robbery with the use of a deadly weapon. The district court sentenced appellant to serve four consecutive terms of life in the Nevada State Prison without the possibility of parole, four additional terms of life with the possibility of parole, and various other lesser terms. On direct appeal, this court reversed appellant's conviction and sentences on one of the counts of first degree kidnapping with the use of a deadly weapon, and affirmed appellant's remaining convictions and sentences.¹ Appellant then filed a petition for rehearing that was denied by this court.² The remittitur issued on October 2, 1998.

¹Ducksworth v. State, 113 Nev. 780, 942 P.2d 157 (1997).

²Ducksworth v. State, 114 Nev. 951, 966 P.2d 165 (1998).

On December 10, 1998, in accordance with the decisions and opinions of this court filed on July 15, 1997, and September 24, 1998, the district court filed an amended judgment of conviction vacating one of appellant's convictions and sentences for first degree kidnapping with the use of a deadly weapon. This court dismissed appellant's untimely appeal from the amended judgment of conviction for lack of jurisdiction.³

On July 19, 2001, appellant filed a proper person 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 July 7, 1999, the district court denied appellant's petition. This appeal followed.

Appellant filed his petition more than two years after this court issued the remittitur from his direct appeal. Thus, appellant's petition was untimely filed.⁴ Appellant's petition was procedurally barred absent a demonstration of good cause for the delay and prejudice.⁵

³Ducksworth v. State, Docket No. 36599 (Order Dismissing Appeal, November 27, 2000).

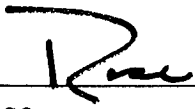
⁴See NRS 34.726(1); see also Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-1134 (1998) (holding that the one year period for filing a post-conviction habeas corpus petition begins to run from the issuance of the remittitur from a timely direct appeal or from the entry of the judgment of conviction if no direct appeal is taken). We note that even assuming, without deciding, that the time for filing a timely post-conviction habeas corpus petition in the instant case would run from the filing of the amended judgment of conviction of December 10, 1998, appellant's petition would still be untimely as it was filed more that two years after the filing of the amended judgment of conviction.

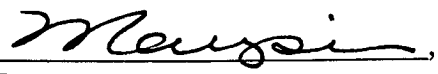
⁵See NRS 34.726(1).

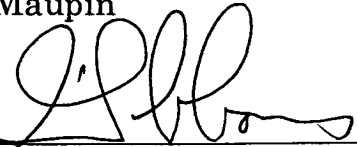
Appellant did not attempt to demonstrate good cause for his delay. Thus, we conclude the district court did not err in denying appellant's petition.⁶

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.⁸


_____, J.
Rose


_____, J.
Maupin


_____, J.
Gibbons

cc: Hon. John S. McGroarty, District Judge
Ronald Ducksworth Jr.
Attorney General/Carson City
Clark County District Attorney
Clark County Clerk

⁶See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

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

⁸We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.