

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT EARL JONES,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 39039

FILED

DEC 19 2002

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Ribard*  
CHIEF 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 January 27, 1999, the district court convicted appellant, pursuant to a jury verdict, of one count of first degree murder with the use of a deadly weapon and one count of attempted murder with the use of a deadly weapon. The district court sentenced appellant to serve two consecutive terms of life in the Nevada State Prison with the possibility of parole and consecutive terms totaling sixty-four months to two hundred and eighty-eight months. This court dismissed appellant's appeal from his judgment of conviction.<sup>1</sup> The remittitur issued on June 20, 2000.

On June 20, 2001, appellant filed a motion for enlargement of time to file a post-conviction petition for a writ of habeas corpus. Appellant requested a thirty-day extension.<sup>2</sup> On July 9, 2001, at a hearing

---

<sup>1</sup>Jones v. State, Docket No. 33748 (Order Dismissing Appeal, May 25, 2000).

<sup>2</sup>Appellant claimed that he could demonstrate good cause for the thirty-day extension because he had been transferred to various prisons  
*continued on next page . . .*

conducted outside the presence of appellant, the State informed the district court that it did not oppose the thirty-day extension. The district court orally granted appellant's motion and directed that appellant would be allowed to file his habeas corpus petition within thirty days of the granting of appellant's motion.

On August 13, 2001, outside of the thirty-day extension period authorized by the district court, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition on the ground that the petition was procedurally time-barred. 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 December 7, 2001, the district court denied appellant's petition on the ground that it was procedurally time-barred. This appeal followed.

Appellant filed his petition more than one year after this court issued the remittitur from his direct appeal. Appellant further filed his habeas corpus petition five days after the deadline of the extended period granted by the district court. Thus, appellant's petition was untimely filed.<sup>3</sup> Appellant's petition was procedurally barred absent a demonstration of cause for the delay and prejudice.<sup>4</sup>

---

*... continued*

and a medical facility, which impeded his efforts to prepare and mail his petition.

<sup>3</sup>See NRS 34.726(1). The filing deadline, pursuant to the district court's granting of his motion, was August 8, 2001. Appellant signed and dated his habeas corpus petition on August 9, 2001, the day after the district court's extended deadline. Appellant, however, dated the certificate of service by mail on August 8, 2001. Appellant's habeas corpus  
*continued on next page . . .*

Appellant claimed that his petition was timely filed and did not attempt to otherwise demonstrate good cause for the untimely filing of his petition. Appellant attached as an exhibit a copy of the district court minutes granting his motion for an extension of time.

Based upon our review of the record on appeal, we conclude that the district court did not err in determining that appellant's petition was procedurally time-barred and that appellant failed to demonstrate good cause to excuse the entirety of his delay.<sup>5</sup> Even assuming that appellant had demonstrated good cause for filing a habeas corpus petition after the statutory deadline, but on or before August 8, 2001, the extended deadline, appellant failed to demonstrate good cause to excuse the entirety of his delay. Appellant acknowledged on the face of his petition that the district court's extension provided him with a thirty-day extension from the date the district court granted the motion. Appellant's petition was filed after the extended deadline. Appellant offered no explanation for his failure to file his petition within the period of the extended deadline. Thus, we affirm the order of the district court.

---

*... continued*


petition was untimely regardless of the discrepancy between the dates because it was not filed in the district court by the date imposed by the district court. Gonzales v. State, 118 Nev. \_\_, \_\_ P.3d \_\_ (Adv. Op. No. 61, September 13, 2002) (declining to extend the mailbox rule to the filing of habeas corpus petitions).

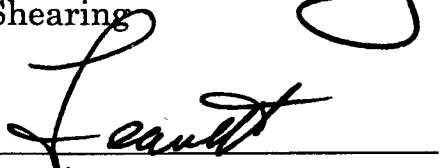
<sup>4</sup>See id.

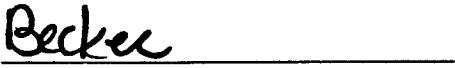
<sup>5</sup>Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

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.<sup>6</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>7</sup>

  
\_\_\_\_\_, J.  
Shearing

  
\_\_\_\_\_, J.  
Leavitt

  
\_\_\_\_\_, J.  
Becker

cc: Hon. Kathy A. Hardcastle, District Judge  
Attorney General/Carson City  
Clark County District Attorney  
Robert Earl Jones  
Clark County Clerk

---

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

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