

IN THE SUPREME COURT OF THE STATE OF NEVADA

FARRIN HAWKINS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 39930

FILED

APR 17 2003

ORDER OF AFFIRMANCE

CHRISTIE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richard*  
DEPUTY CLERK

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

On July 24, 1989, the district court convicted appellant Farrin Hawkins, pursuant to a jury verdict, of one count of first degree kidnapping with the use of a deadly weapon, two counts of sexual assault with the use of a deadly weapon, and one count each of robbery, false imprisonment, taking the vehicle of another without permission, and assault. The district court sentenced Hawkins to serve concurrent terms of life in the Nevada State Prison for the first degree kidnapping and sexual assault charges, plus equal and consecutive terms for the deadly weapon enhancements, one concurrent term of fifteen years in prison, and two concurrent terms of one year and one term of six months in the Clark County Detention Center. This court dismissed Hawkins' direct appeal.<sup>1</sup> Remittitur issued on August 1, 1989. On August 16, 1989, the district court corrected clerical errors within the judgment of conviction.

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<sup>1</sup>Hawkins v. State, Docket No. 19272 (Order Dismissing Appeal, July 11, 1989).

On October 23, 1990, Hawkins filed his first proper person petition for post-conviction relief in the district court. The State opposed the petition. On March 1, 1991, the district court denied the petition. Hawkins did not appeal this decision.

On November 5, 1996, Hawkins filed a proper person petition for a writ of habeas corpus in the district court. The State opposed the petition. On April 16, 1997, the district court denied the petition. Hawkins did not appeal this decision.

On November 8, 2001, Hawkins filed the instant proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition arguing that it was untimely and successive. Moreover, the State specifically pleaded laches. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent Hawkins or to conduct an evidentiary hearing. On June 7, 2002, the district court denied Hawkins' petition. This appeal followed.

Hawkins filed his petition more than twelve years after this court issued the remittitur from his direct appeal. Thus, Hawkins' petition was untimely filed.<sup>2</sup> Moreover, Hawkins' petition was successive because he had previously filed two petitions for post-conviction relief.<sup>3</sup> Hawkins' petition was procedurally barred absent a demonstration of good cause and prejudice.<sup>4</sup> Further, because the State specifically pleaded

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<sup>2</sup>See NRS 34.726(1).

<sup>3</sup>See NRS 34.810(1)(b)(2); NRS 34.810(2).

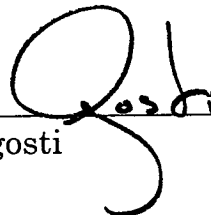
<sup>4</sup>See NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3).

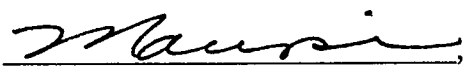
laches, Hawkins was required to overcome the presumption of prejudice to the State.<sup>5</sup>

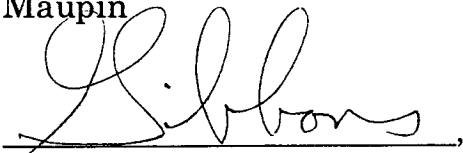
Hawkins did not attempt to excuse his procedural defects. Based upon our review of the record on appeal, we conclude that the district court did not err in denying Hawkins' petition.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Hawkins 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.

  
\_\_\_\_\_, C.J.  
Agosti

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Jackie Glass, District Judge  
Farrin Hawkins  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>5</sup>See NRS 34.800(2).

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