

IN THE SUPREME COURT OF THE STATE OF NEVADA

DARNELL LEROY PARRISH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 40676

FILED

NOV 21 2003

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
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 April 1, 1998, the district court convicted appellant, pursuant to a jury verdict, of second degree 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 after ten years. This court dismissed appellant's appeal from his judgment of conviction and sentence.¹ The remittitur issued on March 14, 2000.

On September 27, 2000, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. Appellant filed a reply. 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 January 24,

¹Parrish v. State, Docket No. 32285 (Order Dismissing Appeal, February 16, 2000).

2001, the district court denied appellant's petition. This court affirmed the order of the district court.²

On September 6, 2002, appellant filed the instant proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. 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 January 16, 2003, 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.³ Moreover, appellant's petition was successive because he had previously filed a post-conviction petition for a writ of habeas corpus.⁴ Appellant's petition was procedurally barred absent a demonstration of good cause and prejudice.⁵

In an attempt to excuse his procedural defects, appellant argued that this court did not address one of the issues he raised in a motion to amend a brief filed in this court in the previous post-conviction appeal. Appellant also claimed that an improper ex-parte evidentiary hearing was conducted in the prior post-conviction matter.

Appellant did not have the right to file supplemental pleadings in this court without permission, and this court did not grant him permission.⁶ This court will not consider issues raised for the first

²Parrish v. State, Docket No. 37363 (Order of Affirmance, August 21, 2002).

³See NRS 34.726(1).

⁴See NRS 34.810(1)(b)(2); NRS 34.810(2).


⁵See NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3).

⁶NRAP 46(b).


time on appeal.⁷ Appellant failed to demonstrate why he was unable to present the claims in the earlier proceedings. Additionally, the record belies appellant's claim that an ex-parte evidentiary hearing was conducted in the prior post-conviction matter.⁸ Therefore, we conclude that appellant failed to demonstrate good cause for his procedural defects and 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.⁹ Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹⁰


_____, J.
Becker


_____, J.
Shearing


_____, J.
Gibbons

⁷See McKenna v. State, 114 Nev. 1044, 1054, 968 P.2d 739, 746 (1998).

⁸See Gebbers v. State, 118 Nev. ___, 50 P.3d 1092 (2002).

⁹See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

¹⁰We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.

cc: Hon. Michael L. Douglas, District Judge
Darnell Leroy Parrish
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk