

IN THE SUPREME COURT OF THE STATE OF NEVADA

SCOTT V. RULAND A/K/A STEVEN
JOSEPH SCHMIDTS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 40972

FILED

APR 22 2004

ORDER OF AFFIRMANCE

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

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

On July 25, 1984, the district court convicted Ruland, pursuant to a jury verdict, of one count each of attempted murder with the use of a deadly weapon and resisting a public officer. The district court sentenced Ruland to serve two terms of 20 years and one term of 6 years in the Nevada State Prison. The district court imposed the terms to run consecutively. This court affirmed the district court's judgment of conviction.¹ The remittitur issued on December 23, 1986.

On December 22, 1987, Ruland filed a petition in the district court entitled "petition for post-conviction relief habeas corpus NRS 34.720." The district court construed Ruland's petition as a request for a writ of habeas corpus, and ordered the appointment of counsel. On March

¹Ruland v. State, 102 Nev. 529, 728 P.2d 818 (1986).

31, 1989, pursuant to the stipulation of the parties, the district court dismissed Ruland's petition without prejudice.

On April 13, 1989, and February 20, 1990, Ruland filed his second and third proper person post-conviction petitions for writs of habeas corpus in the district court. The district court denied both of these petitions, concluding that they were procedurally barred. This court dismissed the appeals that followed.²

On August 6, 2002, Ruland filed his fourth proper person post-conviction petition for a writ of habeas corpus in the district court. On September 30, 2002, the district court denied the petition, concluding that Ruland's claims were without merit. This court affirmed the order of the district court on appeal.³

On November 14, 2002, Ruland filed his fifth proper person post-conviction petition for a writ of habeas corpus in the district court. In his petition, Ruland claimed that the Nevada Department of Corrections improperly computed his good time credits based on our decision in Nevada Dep't Prisons v. Bowen.⁴ The state filed a motion to dismiss the

²Ruland v. State, Docket No. 21047 (Order Dismissing Appeal, June 8, 1990); Ruland v. State, Docket No. 20164 (Order Dismissing Appeal, December 20, 1989).

³Ruland v. State, Docket No. 40387 (Order of Affirmance, September 16, 2003).

⁴103 Nev. 477, 745 P.2d 697 (1987). Ruland claimed that the Nevada Department of Corrections retroactively applied Bowen to compute his good time credits and because the application of Bowen increased the amount of time he must spend in prison, the application of
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petition, specifically pleading laches. Ruland did not file a response. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent Ruland or to conduct an evidentiary hearing. On January 22, 2003, the district court denied Ruland's petition, concluding that the petition was successive and was barred by the doctrine of laches.⁵ This appeal followed.

Based on our review of the record on appeal, we conclude that the district court did not err in denying Ruland's petition. The documents before this court indicate that Ruland has known since January 12, 1988, that the Nevada Department of Corrections was applying the Bowen decision to his sentence. As such, Ruland failed to demonstrate that this claim could not have been raised in an earlier petition.⁶ Moreover, Ruland failed to support his claim with specific factual allegations which, if true, would entitle him to relief.⁷ Ruland did not demonstrate that application of Bowen to his sentence was in error, that he was not receiving the proper

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Bowen violated his right to due process. See Stevens v. Warden, 114 Nev. 1217, 969 P.2d 945 (1998).

⁵We note that because Ruland challenged the computation of his good time credits and not the validity of his judgment of conviction, the doctrine of laches did not apply to this case. See NRS 34.800(2); Boatwright v. Director, 109 Nev. 318, 322, 849 P.2d 274, 277 (1993).


⁶See NRS 34.810(b)(2); Dromiack v. Warden, 97 Nev. 348, 630 P.2d 751 (1981) (holding that the district court need not consider successive petitions that contain grounds for relief that could have been raised in prior petitions).


⁷See Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984).


number of good time credits, or that he would otherwise be prejudiced by the denial of his claim. Therefore, the district court properly denied Ruland's petition.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude Ruland is not entitled to relief and that briefing and oral argument are unwarranted.⁸ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Hon. Kathy A. Hardcastle, District Judge
Scott V. Ruland
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁸See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).