

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAYSON NEIL HOSKINS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41206

FILED

JAN 27 2004

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 Jayson Hoskins' post-conviction petition for a writ of habeas corpus.

On September 17, 2001, the district court convicted Hoskins, pursuant to a guilty plea, of one count of first-degree kidnapping and one count of attempted sexual assault with a minor under 14 years of age. The district court sentenced Hoskins to serve one term of life with the possibility of parole and one term of 36 to 90 months in the Nevada State Prison. The district court imposed the terms to run consecutively. Hoskins did not file a direct appeal.

On April 10, 2002, Hoskins filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State filed an opposition. The district court calendared an evidentiary hearing. Thereafter, the district court granted Hoskins' subsequent motion to withdraw his petition and vacate the order for the evidentiary hearing.

On December 23, 2002, Hoskins filed a second proper person petition for a writ of habeas corpus in the district court. The State filed a motion to dismiss the petition. Hoskins did not file an answer. Pursuant

to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent Hoskins or to conduct an evidentiary hearing. On March 26, 2003, the district court denied Hoskins' petition. This appeal followed.

Hoskins' petition was filed more than one year after entry of the judgment of conviction. Thus, Hoskins' petition was untimely.¹ Hoskins' petition was procedurally barred absent a demonstration of good cause for the delay and undue prejudice.²

In an attempt to excuse his procedural defects, Hoskins claimed that he did not know how to file the petition and therefore relied upon other inmates "who did not know what they were doing." Neither Hoskins' unfamiliarity with post-conviction filing procedures nor any ineffective assistance he may have received from other inmates constitutes good cause to excuse his failure to comply with the procedural rules.³ Based on our review of the record, we conclude that Hoskins failed to demonstrate adequate cause to excuse his delay and therefore the district court properly denied his petition.

¹See NRS 34.726(1) (providing that a petition for a writ of habeas corpus must be filed within one year after entry of the judgment of conviction if no direct appeal is taken).


²See id.


³See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994) (stating that good cause must be an impediment external to the defense); Phelps v. Director, Prisons, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988) (stating that appellant's limited intelligence or poor assistance from an inmate law clerk in framing issues will not overcome the procedural bar).

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Hoskins is not entitled to relief and that briefing and oral argument are unwarranted.⁴ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁵


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Hon. Joseph T. Bonaventure, District Judge
Jayson Neil Hoskins
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁴See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁵We have considered all proper person documents filed or received in this matter, and we conclude that the relief requested is not warranted.