

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD JAMES ANDERSON A/K/A
JAMES WILLIAM SANTOS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41959

FILED

MAY 05 2004

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant Richard Anderson's motion to amend or vacate his judgment of conviction.

On March 2, 1994, the district court convicted Anderson, pursuant to a guilty plea, of possession of a trafficking quantity of a controlled substance. The district court sentenced Anderson to serve a term of life in the Nevada State Prison with the possibility of parole. This court dismissed Anderson's appeal from his judgment of conviction and sentence.¹ The remittitur issued on March 27, 1996.

On December 31, 1996, Anderson filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. The district court dismissed Anderson's petition, and this court dismissed his subsequent appeal.²

On June 14, 2000, Anderson filed a proper person motion for a more definitive judgment of conviction. Anderson argued that his judgment of conviction should be amended to clarify the amount of time he

¹Anderson v. State, Docket No. 25570 (Order Dismissing Appeal, March 8, 1996).

²Anderson v. State, Docket No. 30334 (Order Dismissing Appeal, October 2, 1998).

must serve prior to parole eligibility. The State opposed the motion. On August 8, 2000, the district court denied Anderson's motion. On appeal, this court affirmed the order of the district court.³

On June 17, 2003, Anderson filed a proper person motion to amend or vacate his judgment of conviction in the district court. The State opposed the motion. On August 7, 2003, the district court denied Anderson's motion. This appeal followed.

In his motion, Anderson claimed that the Nevada Department of Corrections erred in concluding that he is not eligible for parole until he has served twenty-five years. Anderson contended that because the statute under which he was sentenced, NRS 453.3385, was silent regarding parole eligibility, he should be eligible for parole after serving ten years.⁴ Anderson supported this assertion by arguing that at the time he was sentenced, a person convicted of first-degree murder and given a sentence of life with the possibility of parole was eligible for parole after serving only ten years.⁵ Consequently, Anderson argued, he should not be required to serve twenty-five years prior to parole eligibility for a mere drug offense. Anderson further claimed that at the time he was sentenced, NRS 453.3385 was ambiguous concerning parole eligibility and he should receive the benefit of the doubt.

³Anderson v. State, Docket No. 36692 (Order of Affirmance, November 17, 2000).

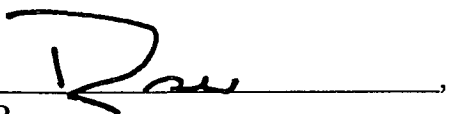
⁴Prior to the 1995 legislative amendments, NRS 453.3385 provided for a punishment of "imprisonment in the state prison for life or for a definite term of not less than 25 years and by a fine of not less than \$500,000" for the quantity of a controlled substance involved in the instant case. See 1983 Nev. Stat., ch. 111, § 2, at 287.

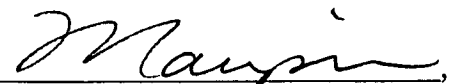
⁵In 1994, NRS 200.030 provided that a person convicted of first-degree murder may be punished by death, life imprisonment without the possibility of parole, or life imprisonment with the possibility of parole after ten years have been served. See 1989 Nev. Stat., ch. 408, § 1, at 865.

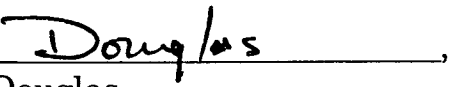
Our review of the record on appeal reveals that this court previously concluded that Anderson's judgment of conviction was not vague regarding parole eligibility and the Nevada Department of Corrections did not err in requiring him to serve twenty-five years prior to becoming eligible for parole.⁶ The doctrine of the law of the case prevents further litigation of this issue and "cannot be avoided by a more detailed and precisely focused argument."⁷ Therefore, the district court did not err in denying Anderson's claim.⁸

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Anderson is not entitled to relief and that briefing and oral argument are unwarranted.⁹ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Rose


_____, J.
Maupin


_____, J.
Douglas

⁶See 1983 Nev. Stat., ch. 111, § 2, at 287; NRS 453.3405(1).

⁷Hall v. State, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975).

⁸Because this claim cannot be re-litigated, any further attempts to seek relief on this issue may be sought in an application for executive clemency. See NRS 213.005-213.100. We note that the grant of executive clemency is a discretionary act, and we express no opinion on whether it would be granted.

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

cc: Hon. Steven R. Kosach, District Judge
Richard James Anderson
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk