

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID WILLIAM JACKSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 42178

FILED

JUN 28 2004

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

This is a proper person appeal from an order denying appellant David Jackson's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; John S. McGroarty, Judge.

On November 1, 2001, the district court convicted Jackson, pursuant to a guilty plea, of sexual assault on a minor under 16 years of age. The district court sentenced Jackson to serve a term of 60 to 240 months in the Nevada State Prison. No direct appeal was taken.

On June 23, 2003, Jackson filed a proper person post-conviction petition for a writ of habeas corpus in the district court. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent Jackson or to conduct an evidentiary hearing. On September 4, 2003, the district court denied Jackson's petition. This appeal followed.

Jackson's petition was filed more than one year after the district court entered its judgment of conviction. Thus, Jackson's petition

was untimely.¹ Jackson's 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, Jackson claimed that he filed his habeas petition within one year after receiving his file from the public defender, no one told him he had only one year to file his habeas petition, and no one told him what to do. However, because no direct appeal was filed, the time for filing a habeas petition began with the entry of the judgment of conviction,³ and Jackson's lack of knowledge about post-conviction remedies did not constitute good cause to excuse his failure to comply with procedural rules.⁴ As such, Jackson failed to demonstrate good cause for the delay in filing his petition.

We have previously stated that good cause might be demonstrated by "showing 'that factual or legal basis for a claim was not reasonably available'" during the statutory period for filing.⁵ Jackson claimed that our holding in Palmer v. State⁶ should apply to his case.

¹See NRS 34.726(1) (providing that "a petition that challenges the validity of a judgment or sentence must be filed within 1 year after entry of the judgment of conviction").

²Id.

³Id.

⁴See Phelps v. Director, Prisons, 104 Nev. 656, 764 P.2d 1303 (1988) (stating that appellant's limited intelligence or poor assistance in framing issues will not overcome the procedural bar).


⁵Hathaway v. State, 119 Nev. ___, ___, 71 P.3d 503, 506 (2003) (quoting Murray v. Carrier, 477 U.S. 478, 488 (1986)).


⁶118 Nev. 823, 59 P.3d 1192 (2002) (holding that a defendant must be informed of lifetime supervision as it is a direct consequence of the plea).

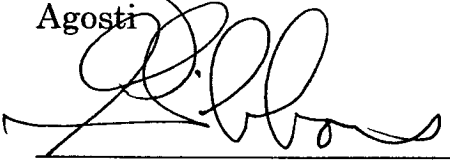
However, even assuming, without deciding, that Palmer would apply retroactively and thus explain Jackson's delay in filing the petition, Jackson failed to demonstrate that our holding in Palmer would warrant relief in his case. Jackson was informed of the consequence of lifetime supervision in the written guilty plea agreement. Therefore, we conclude that the district court properly determined that Jackson's petition was procedurally barred.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Jackson is not entitled to relief and that briefing and oral argument are unwarranted.⁷ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁸


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

⁷See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁸We have reviewed all documents that Jackson has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that Jackson has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.

cc: Hon. John S. McGroarty, District Judge
David William Jackson
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk