

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUAN CARLOS CORONADO A/K/A
JUAN CARLOS CORONADOALANIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 42463

FILED

MAY 12 2004

ORDER OF AFFIRMANCE

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

This is an appeal from an order of the district court denying appellant Juan Carlos Coronado's post-conviction petition for a writ of habeas corpus.

On September 13, 2001, Coronado was convicted, pursuant to an Alford plea,¹ of one count of battery with the intent to commit a crime. In exchange for his Alford plea, the State agreed to dismiss the counts of sexual assault, first-degree kidnapping, and attempted murder and to not oppose the granting of probation. The district court sentenced Coronado to a prison term of 24-84 months, suspended execution of the sentence, and placed him on probation with several conditions for an indeterminate period not to exceed 3 years; he was also ordered to pay \$1,492.70 in restitution. Coronado did not pursue a direct appeal from the judgment of conviction and sentence.

On October 2, 2003, Coronado filed a post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition and filed a motion to dismiss based on the petition's untimeliness.

¹North Carolina v. Alford, 400 U.S. 25 (1970).

The district court heard arguments from counsel, and on February 11, 2004, entered an order denying Coronado's petition based on his failure to overcome the procedural bar. This timely appeal followed.

Coronado filed his habeas petition more than two years after the entry of his judgment of conviction. Thus, Coronado's petition was untimely filed and procedurally barred absent a demonstration of good cause for the delay and prejudice.² Good cause is established by showing that an impediment external to the defense prevented a petitioner from filing a timely petition.³ Generally, a lower court's determination regarding the existence of good cause will not be disturbed absent an abuse of discretion.⁴ Additionally, to be entitled to relief, a petitioner must also demonstrate prejudice.⁵ Without good cause for the delay and prejudice, this court will excuse the procedural bar only if the petitioner can demonstrate that a failure to consider his claims would result in a fundamental miscarriage of justice.⁶

²See NRS 34.726(1); see also Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998) (holding that the one-year period for filing a post-conviction habeas corpus petition begins to run from the entry of the judgment of conviction if no direct appeal was taken).

³See Harris v. Warden, 114 Nev. 956, 959, 964 P.2d 785, 787 (1998), clarified by Hathaway v. State 119 Nev. ___, 71 P.3d 503 (2003); see also Murray v. Carrier, 477 U.S. 478, 488 (1986).

⁴See Colley v. State, 105 Nev. 235, 773 P.2d 1229 (1989).

⁵NRS 34.726(1)(b).

⁶See Mazzan v. Warden, 112 Nev. 838, 842, 921 P.2d 920, 922 (1996); cf. NRS 34.800(1).

In his petition, Coronado contended that his counsel was ineffective for advising him to plead guilty despite the recantation of the victim's allegation. As good cause for the delay in filing the petition, Coronado claims on appeal that he was facing deportation as a result of his arrest by the Department of Homeland Security, and therefore "[i]t is only now that I am aware of how severe the consequences are for this conviction." Coronado argues that he had no reason to question counsel's performance until he was faced with deportation. Further, Coronado points out that because the victim recanted, he is therefore innocent of the crime for which he pleaded guilty. We disagree with Coronado's contention.

We conclude that the district court did not abuse its discretion in denying Coronado's post-conviction petition for a writ of habeas corpus. In Barajas v. State, this court stated that counsel was not ineffective for failing to inform the defendant about the possibility of deportation because it was a collateral consequence of his guilty plea.⁷ Here, the district court concluded that counsel's performance, pursuant to Barajas, did not fall below an objective standard of reasonableness and was not sufficient cause to excuse the petition's procedural defect. Also, at the hearing on the petition, the district court noted that Coronado could not demonstrate undue prejudice because he pleaded guilty pursuant to Alford, and that an Alford plea is, by its nature, accompanied by a denial of the facts constituting the offense.⁸ Additionally, we conclude that Coronado has failed to demonstrate that the district court's denial of his petition on

⁷115 Nev. 440, 442, 991 P.2d 474, 475-76 (1999).


⁸State v. Gomes, 112 Nev. 1473, 1479, 930 P.2d 701, 705 (1996).


procedural grounds constituted a fundamental miscarriage of justice, or that he is entitled to relief.

Accordingly, having considered Coronado's contentions and concluded that they are without merit, we

ORDER the judgment of the district court AFFIRMED.

 _____, J.
Rose

 _____, J.
Maupin

 _____, J.
Douglas

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