

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY DWAYNE YOUNG A/K/A
ANTHONY CURTIS HILL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 42466

FILED

JUL 8 2004

ORDER OF AFFIRMANCE

MANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

This is a proper person appeal from an order of the district court dismissing appellant Anthony Young's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

On September 2, 1998, the district court convicted Young, pursuant to a jury verdict, of robbery of a victim 65 years of age or older. The district court sentenced Young to serve two consecutive terms of 48 to 145 months in the Nevada State Prison. This court dismissed Young's appeal from his judgment of conviction and sentence.¹ The remittitur issued on June 10, 1999.

On December 8, 1999, Young filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. On March 17, 2000, the district court

¹Young v. State, Docket No. 33136 (Order Dismissing Appeal, May 12, 1999).

dismissed Young's petition, and this court subsequently affirmed the order of the district court.²

On February 14, 2003, Young filed a second proper person post-conviction petition for a writ of habeas corpus in the district court. On February 25, 2003, the district court dismissed Young's petition. No appeal was taken.

On November 5, 2003, Young filed the instant 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 Young or to conduct an evidentiary hearing. On November 21, 2003, the district court dismissed Young's petition. This appeal followed.

Young filed his petition more than four years after this court issued the remittitur from his direct appeal. Thus, Young's petition was untimely filed.³ Moreover, Young's petition was successive because he had previously filed two post-conviction petitions for writs of habeas corpus.⁴ Young's petition was procedurally barred absent a demonstration of good cause and prejudice.⁵

Young did not attempt to excuse his procedural defects. Rather, Young argued that he is re-raising several claims as violations of the federal constitution in order to meet federal court exhaustion

²Young v. State, Docket No. 35869 (Order of Affirmance, April 10, 2002).

³See NRS 34.726(1).

⁴See NRS 34.810(2).


⁵See NRS 34.726(1); NRS 34.810(3).

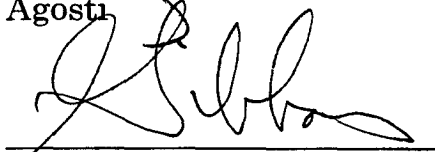
requirements. Because Young failed to demonstrate good cause to excuse his untimely and successive petition, the district court did not err in dismissing the instant petition.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Young is not entitled to relief and that briefing and oral argument are unwarranted.⁶ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁷


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Hon. Steven P. Elliott, District Judge
Anthony Dwayne Young
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

⁶See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁷We have reviewed all documents that Young 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 Young has attempted to present claims or facts in those submissions that were not previously presented in the proceedings below, we have declined to consider them in the first instance.