

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUNIOR WALKER MILLS,
Appellant,
vs.
WARDEN, NORTHERN NEVADA
CORRECTIONAL CENTER, DON
HELLING,
Respondent.

No. 42631

FILED

JUL 27 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 dismissing a post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge.

On June 8, 2000, the district court convicted appellant, pursuant to a jury verdict, of one count of murder with the use of a deadly weapon and one count of robbery with the use of a deadly weapon. The district court sentenced appellant to serve two consecutive terms of life in the Nevada State Prison without the possibility of parole for the murder count and two consecutive terms of 72 to 180 months for the robbery count. The latter terms were imposed to run consecutively to the former. This court affirmed appellant's judgment of conviction on direct appeal.¹ The remittitur issued on August 8, 2001.

¹Mills v. State, Docket No. 36275 (Order of Affirmance, July 11, 2001).

Appellant next filed a proper person motion for a new trial. The State opposed the motion, and appellant filed a response. On October 11, 2001, the district court denied the motion. This court affirmed the order of the district court on appeal.²

On August 7, 2003, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State filed a motion to dismiss the petition. Appellant filed a motion for an evidentiary hearing. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On December 2, 2003, the district court dismissed appellant's petition. This appeal followed.

Appellant filed his petition approximately two years after this court issued the remittitur from his direct appeal. Thus, appellant's petition was untimely filed.³ Appellant's petition was procedurally barred absent a demonstration of cause for the delay and prejudice.⁴

Appellant did not attempt to demonstrate good cause for the delay. Therefore, we conclude that the district court did not err in dismissing appellant's petition.⁵

²Mills v. State, Docket No. 38690 (Order of Affirmance, April 9, 2003).

³See NRS 34.726(1).

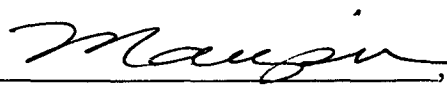
⁴See id.


⁵To the extent that the claims raised in the petition could have been raised in the prior proceedings, we conclude that the district court did not
continued on next page . . .

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant 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.
Rose


_____, J.
Maupin


_____, J.
Douglas

... continued

err in determining that the petition was successive and without good cause. See NRS 34.810(1)(b).

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

⁷We have reviewed all documents that appellant 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 appellant 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. Steven R. Kosach, District Judge
Junior Walker Mills
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk