

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES VANCE WILLIAMS,
Appellant,
vs.
THE STATE OF NEVADA AND
WARDEN, SOUTHERN DESERT
CORRECTIONAL CENTER, BRIAN
WILLIAMS,
Respondents.

No. 56556

FILED

DEC 09 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus, or alternatively, a petition for a writ of mandamus or request for declaratory judgment.¹ Second Judicial District Court, Washoe County; Robert H. Perry, Judge.

Appellant filed his petition on March 16, 2010, over five years after issuance of the remittitur on direct appeal on August 17, 2004.

¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

Williams v. State, Docket No. 43122 (Order Affirming in Part, Vacating in Part and Remanding, July 23, 2004). Thus, appellant's petition was untimely filed. See NRS 34.726(1). Appellant's petition was also an abuse of the writ as he raised a claim new and different from those raised in his previous petitions.² See NRS 34.810(2). Appellant's petition was therefore procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(3).

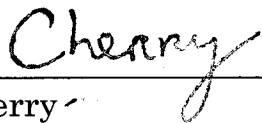
Appellant did not attempt to argue good cause below. To the extent that appellant argued that a fundamental miscarriage of justice excused his procedural defects, his arguments fell short of demonstrating actual innocence.³ See Calderon v. Thompson, 523 U.S. 538, 559 (1998); Schlup v. Delo, 513 U.S. 298, 327 (1995); see also Pellegrini v. State, 117 Nev. 860, 887, 34 P.3d 519, 537 (2001); Mazzan v. Warden, 112 Nev. 838,


²Williams v. State, Docket No. 52738 (Order of Affirmance, April 7, 2010).


³Appellant's claims did not implicate the jurisdiction of the courts. Nev. Const. art. 6, § 6; NRS 171.010.

842, 921 P.2d 920, 922 (1996). Therefore, the district court did not err in denying appellant's petition.⁴ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁵


Cherry, J.


Saitta, J.


Gibbons, J.

⁴To the extent that the district court reached the merits of appellant's claims, "[a]pplication of the statutory procedural default rules to post-conviction habeas petitions is mandatory." State v. Dist. Ct. (Riker), 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005). We nevertheless affirm the district court's decision for the reasons discussed above. See Wyatt v. State, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) (holding that a correct result will not be reversed simply because it is based on the wrong reason).

⁵We 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. Robert H. Perry, District Judge
James Vance Williams
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk