

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEASK PITTMAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 59625

FILED

APR 11 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order denying a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; David B. Barker, Judge.

Appellant filed his petition on March 3, 2011, almost eleven years after issuance of the remittitur on direct appeal on July 6, 2000. Pittman v. State, Docket No. 32882 (Order Dismissing Appeal, June 9, 2000). Thus, appellant's petition was untimely filed. See NRS 34.726(1). Moreover, appellant's petition was successive because he had previously litigated two post-conviction petitions for a writ of habeas corpus, and it

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

constituted an abuse of the writ to the extent that he raised claims new and different from those raised in his previous petitions.² See NRS 34.810(1)(b)(2); NRS 34.810(2). Appellant's petition was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3). Appellant did not attempt to demonstrate good cause for the delay. Thus, the district court did not err in denying the petition as procedurally barred.

In his petition, among other things, appellant claimed that on January 13, 2010, the district court had dismissed the entirety of his case, excepting his misdemeanor conviction for battery. Thus, he argued that he was illegally confined. The record does not support appellant's allegation.³ NRS 34.360. Rather, the documents before this court indicate that the district court denied an untimely petition on January 13, 2010. Appellant is cautioned that a prisoner may forfeit all deductions of time earned by the prisoner if the court finds that the prisoner has filed a

²Appellant did not appeal from the denial of his 2009 and 2010 petitions.

³We note that appellant is confined pursuant to a July 21, 1998, judgment of conviction for battery, attempted sexual assault, burglary, battery with intent to commit a crime, four counts of sexual assault with a deadly weapon, and robbery. Appellant was sentenced to serve a total of eight consecutive life sentences and multiple consecutive fixed terms of imprisonment.

document in a civil action and the document contains allegations or information presented as fact for which evidentiary support is not available or is not likely to be discovered after further investigation. See NRS 209.451(1)(d)(3). Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁴

Cherry, J.
Cherry

Pickering, J.
Pickering

Hardesty, J.
Hardesty

cc: Hon. David B. Barker, District Judge
Delask Pittman
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

⁴We 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.