

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VORNELIUS JAMAL PHILLIPS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 76371-COA

FILED

OCT 30 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Vornelius Jamal Phillips appeals from an order of the district court denying a postconviction motion to withdraw a guilty plea, a motion to correct an illegal sentence, and a motion for transcripts. Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

Motion to withdraw guilty plea

Phillips filed his motion¹ on May 22, 2018, more than 14 years after entry of the judgment of conviction on April 27, 2004.² Thus, Phillips' motion was untimely filed. *See* NRS 34.726(1). Moreover, Phillips' motion

¹A postconviction petition for a writ of habeas corpus is the exclusive remedy to challenge the validity of a guilty plea after sentencing. *Harris v. State*, 130 Nev. 435, 448-49, 329 P.3d 619, 628 (2014). Therefore, the district court should have construed the motion as a postconviction petition for a writ of habeas corpus, *see id.*, and applied the procedural bars, *see State v. Eighth Judicial Dist. Court (Riker)*, 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005) ("Application of the statutory procedural default rules to post-conviction habeas petitions is mandatory."). Nevertheless, because the district court reached the correct result, we affirm. *See Wyatt v. State*, 86 Nev. 292, 298, 468 P.2d 338, 341 (1970).

²Phillips did not pursue a direct appeal.

was successive because he had previously filed several postconviction petitions for a writ of habeas corpus, and it constituted an abuse of the writ as he raised claims new and different from those raised in his previous petitions.³ See NRS 34.810(2). Consequently, Phillips' motion was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(3).

Phillips claimed he had good cause to overcome the procedural bars because the trial-level judge was corrupt. Phillips also contended he had good cause because he was legally insane when he committed the crimes. However, the information related to these claims was reasonably available to be included with his prior postconviction petitions and Phillips did not demonstrate an impediment external to the defense prevented him from doing so. See *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). Moreover, Phillips' mental health issues did not constitute an impediment external to the defense such that he had good cause to overcome the procedural bars. See generally *Phelps v. Dir., Nev. Dep't of Prisons*, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988) (holding that petitioner's claim of organic brain damage, borderline mental retardation, and reliance on assistance of inmate law clerk unschooled in the law did not constitute good cause for the filing of a successive postconviction petition). Therefore, Phillips failed to overcome the procedural bars and the district court did not err by denying the motion.


³*Phillips v. State*, Docket No. 74935-COA (Order of Affirmance, September 11, 2018); *Phillips v. State*, Docket No. 68281 (Order of Affirmance, April 15, 2016); *Phillips v. State*, Docket No. 52692 (Order of Affirmance and Limited Remand to Correct the Judgment of Conviction, March 10, 2010).

Motion to correct an illegal sentence

In his motion to correct illegal sentence filed on May 11, 2018, Phillips claimed the State did not prove he used a deadly weapon and he lacked the mental capacity to form the intent necessary to commit the crimes. Phillips' claims fell outside the narrow scope of claims permissible in a motion to correct an illegal sentence. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Therefore, without considering the merits of any of the claims raised in the motion, we conclude the district court did not err by denying the motion.⁴ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁵


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

⁴We conclude the district court did not err by denying Phillips' motion for transcripts.

⁵We deny Phillips' motion for counsel.

cc: Chief Judge, Eighth Judicial District Court
Vornelius Jamal Phillips
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk