

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CEDRIC LEROB JACKSON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 84790-COA

FILED

SEP 29 2022

ELIZABETH A. REICHMAN
CLERK OF JUDICIAL COURT
BY: *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Cedric Lerob Jackson appeals from an order denying an “amended postconviction petition for a writ of habeas corpus” filed on July 26, 2021, and a “second amended petition for a writ of habeas corpus or alternatively motion to modify based upon changes in supreme court law and changes in Nevada revised statute 193.165” filed on March 7, 2022. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, Judge.

Jackson filed his petition more than six years after entry of the judgment of conviction on November 21, 2014.¹ Thus, Jackson’s petition was untimely filed. *See* NRS 34.726(1). Moreover, Jackson’s petition was an abuse of the writ because he had previously filed a postconviction petition for a writ of habeas corpus and he raised claims new and different from those raised in his previous petition.² *See* NRS 34.810(2). Jackson’s petition was procedurally barred absent a demonstration of good cause and actual prejudice, *see* NRS 34.726(1); NRS 34.810(3), or that the failure to

¹Jackson did not file a direct appeal.

²*See Jackson v. State*, No. 72409-COA, 2018 WL 367900 (Nev. Ct. App. Jan 9, 2018) (Order of Affirmance).

consider his petition would amount to a fundamental miscarriage of justice, see *Berry v. State*, 131 Nev. 957, 966, 363 P.3d 1148, 1154 (2015).

First, Jackson claimed the procedural bars should not apply because the Legislature amended NRS 193.165 in 2007, and he argued those amendments should have applied retroactively to his sentence based on recent United States Supreme Court cases. Jackson committed his crime in 2010; therefore, the amendments made to the statute in 2007 were applied to him. Accordingly, this claim did not provide good cause, and the district court did not err by denying it.

Second, Jackson claimed the procedural bars should not apply because his library access was inadequate. “[A]n inmate cannot establish relevant actual injury simply by establishing that his prison’s law library or legal assistance program is subpar in some theoretical sense.” See *Lewis v. Casey*, 518 U.S. 343, 351 (1996). Rather, a prisoner must “demonstrate that the alleged shortcomings in the library or legal assistance program hindered his efforts to pursue a legal claim.” See *id.* Jackson did not explain how the lack of access to the law library caused his entire delay in filing the instant petition. Moreover, Jackson previously filed a postconviction petition for a writ of habeas corpus and other documents in the district court, which indicated his access to the court was not improperly limited by restrictions on access to legal materials or to the prison law library. Accordingly, this claim did not provide good cause, and the district court did not err by denying it.

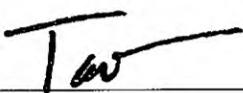
Third, Jackson claimed the procedural bars should not apply because it would be a fundamental miscarriage of justice if his claim that his sentence is fundamentally unfair and manifestly unjust was not heard. Jackson’s aggregate sentence of 14 to 37 years in prison was legal and

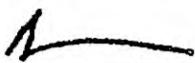
within the parameters of the relevant statutes. See NRS 193.153(1)(a)(1) (replaced NRS 193.330); NRS 193.165(2); NRS 200.030(5)(b). Further, Jackson stipulated to receive this sentence in his guilty plea agreement. Therefore, he failed to demonstrate a fundamental miscarriage of justice, and we conclude the district court did not err by denying the petition as procedurally barred.

Finally, to the extent Jackson also claimed his sentence should be modified or corrected, he failed to demonstrate he was entitled to relief. Jackson failed to demonstrate that the district court relied on mistaken assumptions regarding his criminal record which worked to his extreme detriment, that his sentence was facially illegal, or that the district court lacked jurisdiction. Therefore, we conclude the district court did not err by denying this portion of Jackson's petition. See *Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Tierra Danielle Jones, District Judge
Cedric Lerob Jackson
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk