

DA 16-0225

IN THE SUPREME COURT OF THE STATE OF MONTANA

2017 MT 262N

RANDALL LOWELL STONE,

Petitioner and Appellant,

v.

STATE OF MONTANA,

Respondent and Appellee.

APPEAL FROM: District Court of the Sixth Judicial District,
In and For the County of Park, Cause No. DC 97-38
Honorable Brenda Gilbert, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Randall L. Stone (Self-Represented), Glendive, Montana

For Appellee:

Timothy C. Fox, Montana Attorney General, C. Mark Fowler, Assistant
Attorney General, Helena, Montana

Submitted on Briefs: August 16, 2017

Decided: October 31, 2017

Filed:



Clerk

Justice Michael E Wheat delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 Randall Lowell Stone (Stone) appeals from the February 9, 2017 order of the Sixth Judicial District Court, Park County, denying his petition for post-conviction relief (PCR). On April 25, 1997, Stone was charged with one count of burglary, two counts of felony theft, and one count of endangering the welfare of a child. On June 23, 1997, Stone pled guilty to all counts. On July 14, 1997, Stone was sentenced to a six-year deferred sentence. Subsequently, in 1999, Stone's sentence was revoked and he was sentenced to five years for each felony to run concurrently.

¶3 On February 3, 2016, Stone filed his PCR petition, raising numerous ineffective assistance of counsel claims. On February 9, 2016, the District Court denied Stone's petition based on the merits. Stone now appeals the District Court's denial of his PCR petition.

¶4 We review a district court's denial of a petition for post-conviction relief to determine whether the court's findings of fact are clearly erroneous and whether its conclusions of law are correct. *Wilkes v. State*, 2015 MT 243, ¶ 9, 380 Mont. 388, 355 P.3d 755. We will affirm a district court's ruling, even if the court reached the correct

result for the wrong reason. *Raugust v. State*, 2003 MT 367, ¶ 9, 319 Mont. 97, 82 P.3d 890.

¶5 Section 46-21-102(1), MCA, provides that a PCR petition must be filed within one year of the date that the conviction becomes final. A conviction becomes final when the time for appeal to the Montana Supreme Court expires. Section 46-21-102(1)(a), MCA. Under M. R. App. P. 4(5)(b)(i), an appeal from a judgment must be brought within sixty days after entry of the judgment.

¶6 In this case, Stone's sentence was imposed on July 14, 1997. Stone had sixty days from this date to file an appeal to this Court. He did not appeal. His time for appeal expired in September 1997, and his conviction was then final for purposes of § 46-21-102(1), MCA. Therefore, pursuant to the one-year limitation period, Stone had until September 1998 to file his PCR petition. Thus, because Stone did not file his PCR petition until February 2016, the petition is time-barred under § 46-21-102(1), MCA. Stone failed to show that an exception to the PCR statute of limitations applies.

¶7 The District Court denied Stone's PCR on the merits. The District Court did not consider the PCR statute of limitations, however, reached the correct result. Therefore, the District Court properly denied Stone's PCR petition.

¶8 We have determined to decide this case pursuant to Section I, Paragraph 3(c) of our Internal Operating Rules, which provides for memorandum opinions. In the opinion of the Court, the case presents a question controlled by settled law or by the clear application of applicable standards of review.

¶9 Affirmed.

/S/ MICHAEL E WHEAT

We Concur:

/S/ MIKE McGRATH

/S/ LAURIE McKINNON

/S/ BETH BAKER

/S/ JAMES JEREMIAH SHEA