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Haas v. State Respondent's Brief Dckt. 41806

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IN THE SUPREME COURT OF THE STATE OF IDAHO

COPY

JAMES TIMOTHY HAAS,
Petitioner-Appellant,

vs.

STATE OF IDAHO,
Respondent.

)
) No. 41806
)
) Kootenai Co. Case No.
) CV-2001-5426
)
)
)
)
)
)

BRIEF OF RESPONDENT

APPEAL FROM THE DISTRICT COURT OF THE FIRST JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF KOOTENAI

HONORABLE RICHARD S. CHRISTENSEN,
District Judge

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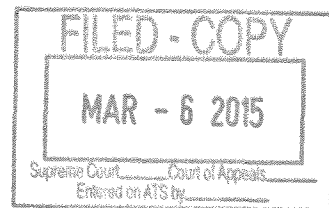


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STATEMENT OF THE CASE

Nature of the Case

James T. Haas appeals from the district court's dismissal of his petition for post-conviction relief. Haas appeals the district court's decision denying his motion to amend his petition for post-conviction relief.

Statement of Facts and Course of Proceedings

Haas stipulated to the dismissal of his petition for post-conviction relief. (R., pp. 15-16.) Haas, Haas' attorney, and the handling prosecutor all signed the stipulation. (Id.) Pursuant to the stipulation, the district court entered a Conditional Order of Dismissal. (R., pp. 17-18.) The final order of dismissal would be entered when the district court in Kootenai County Case No. CRF-99-371 ruled on Haas' pending Rule 35 motion. (R., p. 17.) On March 13, 2003 the district court in Case No. CRF-99-371 ruled on Haas' Rule 35 motion and reduced his sentence. (R., pp. 24-25.) However, a final judgment dismissing the post-conviction case was not entered at that time. (Id.)

Ten years later Haas filed a Notice of Intent to Proceed Pro Se and filed a Motion to File An Amended Petition. (R., pp. 19-22.¹) Haas' motion to amend requested the Court grant him 30 days to file an amended petition. (R., pp. 21-22.) The motion to amend did not set out any new claims or any amendments to existing claims. (Id.)

¹ During the intervening ten years Haas filed at least three petitions for post-conviction relief. See Kootenai County Case No. CV 2001-5426; Kootenai County Case No. CV 2010-1109; Kootenai County Case No. CV 2012-5259, Appeal No. 40998. Haas also filed a Petition for Writ of Habeas Corpus. See Ada County Case CV-HC-2012-08613, Appeal No. 40310.

The district court denied Haas' motion to amend. (R., pp. 23-27.) The district court ruled in part:

Here, the petitioner has simply moved for blanket permission to amend. Because the motion does not contain specific issues that the petitioner proposes to raise, the motion does not establish a valid claim under the pleading requirements for a petition for post-conviction relief. Therefore, the petitioner's motion to amend is denied.

(R., p. 26.) Based on the stipulation of the parties and the Conditional Order of Dismissal, the district court entered an Order of Dismissal and Judgment. (R., pp. 28-31.) Haas appealed. (R., pp. 32-35.)

ISSUE

Haas generally states the issue on appeal as:

Did the district court err when it denied Haas' motion to amend his post-conviction petition?

(See Appellant's brief, pp. 3-6.)

The state rephrases the issue as:

Has Haas failed to show the district court abused its discretion when it denied his motion to amend his post-conviction petition?

ARGUMENT

Haas Failed To Show The District Court Abused Its Discretion When It Denied His Motion To Amend

A. Introduction

Haas moved to amend his post-conviction petition, but instead of setting out new claims or amended claims, Haas moved for blanket permission to amend his post-conviction petition. The district court did not abuse its discretion when it denied his motion.

On appeal Haas claims, for the first time, that he wanted to amend his post-conviction petition to allege ineffective assistance of his post-conviction counsel. This claim should not be considered on appeal. Even if it is considered, it does not set out a valid claim and Haas' motion to amend was properly denied.

B. Standard Of Review

Post-conviction cases are generally governed by the Idaho Rules of Civil Procedure. Rhoades v. State, 148 Idaho 215, 217, 220 P. 3d 571, 573 (2009) (citing McKinney v. State, 133 Idaho 695, 699, 992 P. 2d 144, 148 (1999)). Therefore a motion to amend a post-conviction petition is governed by Idaho Rule of Civil Procedure 15(a). Pursuant to Idaho Rule of Civil Procedure 15(a), "a party may amend a pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires." The decision to grant or deny a motion to amend is left to the sound discretion of the trial court. Rhoades, 148 Idaho at 217, 220 P. 3d at 573 (2009) (citing Jones v. Watson, 98 Idaho 606, 610, 570 P.2d 284, 288 (1977)).

In deciding whether the district court abused its discretion, this Court considers whether the district court (1) perceived the issue as discretionary; (2) acted within the boundaries of its discretion and consistent with the applicable legal standards; and (3) exercised reason in reaching its decision. State v. Taylor, 157 Idaho 186, ___, 335 P.3d 31, 39 (2014) (quoting State v. Cantu, 129 Idaho 673, 674, 931 P.2d 1191, 1192 (1997)).

C. The District Court Did Not Abuse Its Discretion In Denying Haas' Motion To Amend

Although motions to amend should be liberally granted, “[i]f the amended pleading does not set out a valid claim . . . it is not an abuse of discretion for the trial court to deny the motion to file the amended complaint.” Taylor v. McNichols, 149 Idaho 826, 847, 243 P.3d 642, 663 (2010) (quoting Black Canyon Racquetball Club, Inc. v. Idaho First National Bank, 119 Idaho 171, 175, 804 P.2d 900, 904 (1991)). Haas’ motion asked the district court for permission to file an amended petition within 30 days. (R., pp. 21-22.) Haas’ motion did not set out any valid claims. (Id.) The district court correctly denied Haas’ motion. (R., pp. 23-27.)

The district court perceived that it had the discretion to grant or deny Haas’ motion. (R., p. 25 (citing Rhoades, 148 Idaho at 217, 220 P. 3d at 573).) The district court acted within the bounds of its discretion and consistent with the applicable standards when it ruled that Haas was required state a valid claim before it could grant leave to amend. (R., pp. 25-26.) The district court also exercised reason. (Id.) The district court recognized that Haas’ motion was simply a motion “for blanket permission to amend” and denied the motion. (Id.)

Haas failed to show the district court abused its discretion when it denied his motion to amend.

On appeal, Haas argues that he wanted to amend his post-conviction petition to allege that his original post-conviction counsel was ineffective. (Appellant's brief, pp. 5-6.) This issue was not raised before the district court. "Generally, issues not raised below may not be considered for the first time on appeal." Small v. State, 132 Idaho 327, 331, 971 P.2d 1151, 1155 (Ct. App. 1998) (citations omitted). This issue was not raised below and this Court should not consider it for the first time on appeal.

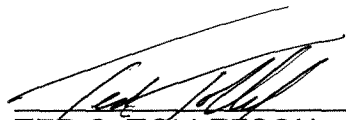
Even if the merits of Haas' new claim are considered, it fails to set out a valid claim. Haas' new claim is his original post-conviction counsel was ineffective. (Appellant's brief, pp. 5-6.) There is no constitutionally protected right to the effective assistance of counsel in post-conviction proceedings, and such an allegation, in and of itself, is not a permissible ground for post-conviction relief. See Follinus v. State, 127 Idaho 897, 902, 908 P.2d 590, 595 (Ct. App. 1995); Wolfe v. State, 113 Idaho 337, 339, 743 P.2d 990, 992 (Ct. App. 1987).

Further, the basis of Haas' claim was his post-conviction counsel settled the post-conviction case without a legal settlement. (See Appellant's brief, pp. 5-6.) Specifically, Haas claims that he does not remember signing any documents settling his post-conviction case. (Id.) This claim is clearly disproven by the record. Haas signed a "Stipulation in Settlement of Post-Conviction Relief." (R., pp. 15-16.) Therefore, even if his new claim is considered, he failed to allege a claim upon which relief could be granted. The district court did not abuse its discretion when it denied Haas' motion to amend.

CONCLUSION

The state respectfully requests this Court affirm the district court's judgment.

DATED this 6th day of March 2015.




TED S. TOLLEFSON
Deputy Attorney General

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 6th day of March 2015, I caused two true and correct copies of the foregoing BRIEF OF RESPONDENT to be placed in the United States mail, postage prepaid, addressed to:

James Timothy Haas, IDOC #37962
c/o ICC, Unit J, Q-Pod
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TST/vr