

NOTICE

Memorandum decisions of this Court do not create legal precedent. See Alaska Appellate Rule 214(d) and Paragraph 7 of the Guidelines for Publication of Court of Appeals Decisions (Court of Appeals Order No. 3). Accordingly, this memorandum decision may not be cited as binding authority for any proposition of law.

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

OWEN W. KEIPER,

Appellant,

v.

STATE OF ALASKA,

Appellee.

Court of Appeals No. A-12156
Trial Court No. 1KE-14-202 CI

MEMORANDUM OPINION

No. 6582 — February 7, 2018

Appeal from the Superior Court, First Judicial District,
Ketchikan, William B. Carey, Judge.

Appearances: Owen W. Keiper, *in propria persona*, Wasilla.
Nancy R. Simel, Assistant Attorney General, Office of Criminal
Appeals, Anchorage, and Craig W. Richards, Attorney General,
Juneau, for the Appellee.

Before: Mannheimer, Chief Judge, Allard, Judge, and Suddock,
Superior Court Judge.*

Judge SUDDOCK.

Owen W. Keiper filed an application for post-conviction relief on May 27, 2014. The State subsequently moved for judgment on the pleadings. The State argued that Keiper's application should be dismissed for two reasons: that it was untimely, and

* Sitting by assignment made pursuant to Article IV, Section 16 of the Alaska Constitution and Administrative Rule 24(d).

that it was successive (Keiper had already litigated two post-conviction relief actions). Superior Court Judge William B. Carey granted the State’s motion to dismiss, ruling that Keiper’s application was both successive and untimely.

Keiper now appeals this dismissal. Because the judge correctly ruled that the application was both successive and untimely, we affirm the dismissal.

The history of Keiper’s applications for post-conviction relief

On September 11, 1998, Owen Keiper was convicted of first-degree sexual assault and second-degree sexual abuse of a minor. For these offenses, Keiper was sentenced to 30 years in prison with 10 years suspended. In 2001, we affirmed Keiper’s conviction on direct appeal.¹ He then filed a post-conviction relief application; when this application was dismissed, he appealed. We affirmed the dismissal in 2006.²

In August of 2012, Keiper filed a habeas corpus petition in the superior court that was converted into a second post-conviction relief application and subsequently denied. We affirmed the superior court’s dismissal of the application in 2015.³

While the 2012 application was still pending, Keiper filed a third application. Judge Carey ruled that Keiper’s post-conviction relief application was time-barred and successive, and dismissed it on the pleadings.⁴ This appeal ensued.

¹ *Keiper v. State*, 2001 WL 322192, at *1 (Alaska App. Apr. 4, 2001) (unpublished).

² *Keiper v. State*, 2006 WL 167846, at *1 (Alaska App. Jan. 25, 2006) (unpublished).

³ *Keiper v. State*, 2015 WL 428325, at *1 (Alaska App. Jan. 28, 2015) (unpublished).

⁴ The court also denied Keiper’s “Motion to Enforce Applicants United States Constitution 14th Amend: Equal Protection of the Law and the Treaty of Guadalupe-Hidalgo Article IX Indians shall be Protected in the Free Enjoyment of their Liberty” because the
(continued...)

Keiper’s post-conviction relief application is both successive and time-barred

If a conviction is appealed, AS 12.72.020(a)(3)(A) precludes an application for post-conviction relief raised more than “one year after the court’s decision is final under the Alaska Rules of Appellate Procedure[.]” If, as here, the application also involves a final administrative decision of the Board of Parole, AS 12.72.020(a)(4) requires that the application be filed within one year. Subsection (a)(6) of the statute precludes (subject to exceptions not present here) successive applications for post-conviction relief.⁵

Keiper’s conviction became final on April 19, 2001. Keiper’s present action for post-conviction relief was filed on May 27, 2014, more than twelve years after the filing deadline set forth in AS 12.72.020(a)(3), and four days after the filing deadline in subsection(a)(4).

We have reviewed Keiper’s application and the judge’s ruling dismissing it. The judge correctly determined that Keiper’s third application for post-conviction relief was a successive petition to which no exception applied, and was time-barred.

Conclusion

We AFFIRM the judgment of the superior court.

⁴ (...continued)
motion was incomprehensible and “may conceivably form the basis for a separate civil action, but there is no basis for its filing in this case.” That ruling is not appealed.

⁵ AS 12.72.020(a)(6).