

IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA

FILED
COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

CHARLES ALLAN DYER,

Petitioner,

v.

THE STATE OF OKLAHOMA

Respondent.

MAY - 5 2023

JOHN D. HADDEN
CLERK

No. PC-2023-147

ORDER AFFIRMING DENIAL OF APPLICATION
FOR POST-CONVICTION RELIEF

The Petitioner has appealed to this Court from an order of the District Court of Stephens County denying his third application for post-conviction relief in Case No. CF-2010-17. In that case, Petitioner was convicted by a jury of Child Sexual Abuse. He was sentenced to thirty years imprisonment in the Oklahoma Department of Corrections. Petitioner appealed to this Court and his Judgment and Sentence was affirmed. *Dyer v. State*, No. F-2012-506 (Okl.Cr. October 30, 2013)(not for publication).

In a January 30, 2023, order the Honorable G. Brent Russell, District Judge, found that Petitioner has previously filed two applications for post-conviction relief in this case which were denied by the District Court and affirmed or dismissed on appeal to this Court.

The trial court examined Petitioner's claims and found them to be without merit and that any further consideration was barred. We agree.

Petitioner was fully afforded the opportunity for post-conviction relief in his previous applications. Petitioner has failed to establish entitlement to any relief in this subsequent post-conviction proceeding. "In the interests of efficiency and finality, our judicial system employs various doctrines to ensure that issues are not endlessly re-litigated." *Smith v. State*, 2013 OK CR 14, ¶ 14, 306 P.3d 557, 564. All issues that were previously raised and ruled upon in direct appeal proceedings or previous post-conviction proceedings are barred as res judicata, and all issues that could have been raised in those previous proceedings but were not are waived, and may not be the basis of a subsequent post-conviction application. 22 O.S.Supp.2022, § 1086; *Fowler v. State*, 1995 OK CR 29, ¶ 2, 896 P.2d 566, 569. Post-conviction review is not an opportunity for a second chance to argue claims of error in hopes that doing so in a different proceeding may change the outcome. *Turrentine v. State*, 1998 OK CR 44, ¶ 12, 965 P.2d 985, 989. "Simply envisioning a new method of presenting an argument previously raised does not avoid

the procedural bar.” *McCarty v. State*, 1999 OK CR 24, ¶ 9, 989 P.2d 990, 995. “Appellate jurisprudence was not created or designed to allow a person convicted of a crime to continually challenge a conviction with new assertions of error.” *Mayes v. State*, 1996 OK CR 28, ¶ 14, n.3, 921 P.2d 367, 372, n.3.

Petitioner’s propositions of error either were or could have been raised in his previous applications for post-conviction relief and are thus barred by res judicata or waived. 22 O.S.Supp.2022, § 1086; *Fowler*, 1995 OK CR 29, ¶ 2, 896 P.2d at 569. He has not established any sufficient reason for not asserting or inadequately raising his current grounds for relief in his previous applications for post-conviction relief. *Id.* Therefore, the order of the District Court of Stephens County denying Petitioner’s third application for post-conviction relief in Case No. CF-2010-17 should be, and is hereby, **AFFIRMED.**

Pursuant to Rule 3.15, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (2023), the **MANDATE** is **ORDERED** issued upon the delivery and filing of this decision.

IT IS SO ORDERED.

WITNESS OUR HANDS AND THE SEAL OF THIS COURT this

5th day of May, 2023.

Scott Rowland
SCOTT ROWLAND, Presiding Judge

Robert L. Hudson
ROBERT L. HUDSON, Vice Presiding Judge

Gary L. Lumpkin
GARY L. LUMPKIN, Judge

David B. Lewis
DAVID B. LEWIS, Judge

William J. Musseman
WILLIAM J. MUSSEMAN, Judge

ATTEST:

John D. Hadden
Clerk