IN THE

Supreme Court

OF THE

Commonwealth of the Northern Mariana Islands

ANTHONY RIOS,
Petitioner-Appellant,

v.

COMMONWEALTH DEPARTMENT OF CORRECTIONS, AND WALLY VILLAGOMEZ, IN HIS OFFICIAL CAPACITY AS THE COMMISSIONER OF CORRECTIONS,
Respondents-Appellees.

Supreme Court No. 2021-SCC-0007-CIV

SLIP OPINION

Cite as: 2022 MP 02

Decided April 01, 2022

CHIEF JUSTICE ALEXANDRO C. CASTRO
ASSOCIATE JUSTICE JOHN A. MANGLOÑA
ASSOCIATE JUSTICE PERRY B. INOS

Superior Court Civil Action No. 20-0081
Associate Judge Kenneth L. Govendo, Presiding

CASTRO, CJ.:

¶ 1 Petitioner-Appellant Anthony Rios ("Rios") appeals the denial of his petition for writ of habeas corpus against Respondents-Appellees the Commonwealth Department of Corrections and its Commissioner ("DOC"). For the following reasons, we AFFIRM the trial court's decision.

I. FACTS AND PROCEDURAL HISTORY

¶ 2 Rios is serving a forty-five-year sentence for violating his probation terms from criminal cases in 1997 and 2003. *See Commonwealth v. Rios*, 2015 MP 12 ¶ 5.

¶ 3 In 1997, Rios pleaded guilty to multiple crimes. He was sentenced to serve five years in prison for one count of Sexual Abuse of a Child with forty years suspended for two other counts of Sexual Abuse of a Child, two counts of Oral Copulation, and one count of Rape. *Id.* ¶ 2.

¶ 4 After serving five years in prison, Rios was involved in another criminal case in 2003. In accordance with the 2003 plea agreement, he pleaded guilty to Sexual Assault in the Second Degree, and the prosecution did not move to revoke his 1997 probation. *Id.* ¶ 3. Instead, Rios was sentenced to five years in prison, with another five years suspended. After serving five years in prison for the 2003 case, Rios was released on probation. *Id.* ¶ 4.

¶ 5 In 2012, Rios was charged with two counts of Sexual Assault in the Second Degree, two counts of Assault and Battery, and two counts of Disturbing the Peace, prompting the prosecution to file a petition to revoke Rios's probation in both the 1997 and the 2003 cases. *Id.* The Superior Court found by a preponderance of the evidence that Rios violated the terms of his probation. *Id.* ¶ 5. Upon this finding, the trial court revoked Rios's probation and sentenced Rios to serve the full forty-year sentence from the 1997 case consecutively with the five-year sentence from the 2003 case, totaling forty-five years. *Id.*

¶ 6 While serving the forty-five-year sentence, Rios was charged and convicted of Disturbing the Peace in 2013. *Commonwealth v. Rios*, Crim. No. 12–0007 (NMI Super. Ct. Feb. 1, 2013) (J. of Conviction and Sentencing Order). Rios appealed to this Court, and we affirmed his sentences, convictions, and probation revocation in *Commonwealth v. Rios*, 2015 MP 12 ¶ 39.

¶ 7 On February 25, 2020, Rios filed a petition for writ of habeas corpus with the Superior Court. He brought four claims: 1) that his guilty plea in the 2003 Sexual Assault in the Second Degree case was unintelligible due to his counsel's failure to advise him about the meaning of "without consent" in the elements of the offense, 2) that he suffered from ineffective assistance of counsel in the 2003 case due to his counsel's failure to advise him in this regard, 3) that the imposition of the revocation sentence violated his due process rights, and 4) that he suffered from ineffective assistance of counsel from his appellate lawyer's failure to challenge the revocation sentence on due process grounds. The Superior Court denied Rios's petition. He now appeals.

II. JURISDICTION

¶ 8 We have jurisdiction over all final judgments and orders of the Commonwealth Superior Court. NMI CONST. art. IV, § 3.

III. STANDARDS OF REVIEW

¶ 9 We review appeals from denials of writs of habeas corpus de novo. *See Commonwealth v. Miura*, 2010 MP 12 ¶ 5 (citing *Prasoprat v. Benov*, 421 F.3d 1009, 1013 (9th Cir. 2005). In this case, the issue of timeliness is dispositive. Whether the doctrine of laches is available is a matter of law and reviewed de novo, but where it is available, the Superior Court's application of laches to the facts of a case is reviewed on a deferential abuse of discretion basis. *In re Estate of Rios*, 2008 MP 5 ¶ 8 (citing *O'Donnell v. Vencor, Inc.*, 466 F.3d 1104, 1109 (9th Cir. 2006)).

IV. DISCUSSION

¶ 10 Rios raises eight issues in his appeal.[1] We do not find it necessary to address all the issues he presents. We find that the trial court acted within its discretion in determining that his petition was procedurally barred. The Superior Court relied on imperfect grounds in reaching its ultimate conclusion.[2] However, even if the trial court relied on such grounds or incorrect reasoning, we may affirm its ruling on any basis supported by the record. *See Small v. Endicott*, 998 F.2d 411, 414 (7th Cir. 1993). Before reaching the merits, Rios's petition must be procedurally sound. We find that the defense of laches may be applied to habeas petitions, and the trial court did not abuse its discretion by applying laches in this case.[3]

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[1] Rios claims that the Superior Court erred by 1) denying that Rios entered into an "unintelligent plea" in 2003, 2) denying that Rios suffered from ineffective assistance of counsel during the 2003 plea, 3) claiming that the Supreme Court had already addressed Rios's due process rights in regards to the revocation sentence in the 2015 appeal, 4) denying that Rios suffered from ineffective assistance of counsel during the revocation sentence appeal, 5) finding that Rios's four claims were barred by a federal statute of limitations, 6) finding that Rios's four claims were barred by laches, 7) finding that Rios failed to exhaust available remedies before filing his petition, and 8) finding that allegations in a habeas corpus petition that are not specifically disputed by DOC in its response to the petition are not deemed admitted. We find it is only necessary to address the sixth issue listed regarding laches.

[2] For example, the trial court asserted that DOC showed there was inexcusable delay because Rios "ha[d] not provided a reason for the delay in filing the writ." *Rios v. Commonwealth*, Civ. No. 20–0081 (NMI Super. Ct. Dec. 4, 2020) (Order Denying Writ of Habeas Corpus 11). This phrasing confuses the initial burden of proof on DOC as the party asserting laches with the burden that shifts to Rios to refute DOC's established claim.

[3] We note that the parties and the trial court discussed whether a statute of limitations applies to habeas petitions, but they did not address whether the general six-year statute of limitations described in 7 CMC § 2505 applies. Thus, we do not reach that question here.

A. Availability of Laches in the Context of Habeas Petitions

¶ 11 First, we review de novo whether the defense of laches is available in the context of habeas petitions. This is an issue of first impression. We turn to our precedent in examining laches here. *In re Estate of Rios*, 2008 MP 5 ¶ 8 (citing *O'Donnell v. Vencor, Inc.*, 466 F.3d 1104, 1109 (9th Cir. 2006)).

¶ 12 The doctrine of laches serves as an equitable bar in situations where one party's unreasonable delay in bringing suit prejudices the adverse party. *Id.* ¶ 9. The party seeking to bring this defense must show that there was an "(1) inexcusable delay in the assertion of a known right" and also that "(2) the party asserting laches was prejudiced." *Id.* (citing *Bank of Saipan v. Martens*, 2007 MP 5 ¶ 7); *Matsunaga v. Cushnie*, 2012 MP 18 ¶ 19. The burden of proving both prongs is on the party asserting laches.

¶ 13 Applying laches is not a punishment for those who delay bringing suit. Rather, it is an equitable bar based upon the presumption that a person with a known right will promptly assert it. *In re Estate of Rios*, 2008 MP 5 ¶ 10. This presumption regarding human behavior similarly applies in the context of habeas corpus, where the question often centers on a petitioner's incarceration. To put this another way, when people believe they are being held in custody illegally, they normally do not delay in attempting to assert their rights. When such assertions are not timely made, courts may block suits without evaluating the merits.

¶ 14 This is not to say that all habeas petitions need to be immediately brought or be deemed untimely; delay in bringing a claim is a necessary component of laches, but it is not sufficient on its own under the doctrine. *Matsunaga v. Cushnie*, 2012 MP 18 ¶ 20 (citing *Whitfield v. Anheuser-Busch, Inc.*, 820 F.2d 243, 245 (8th Cir. 1987). For example, an incarcerated person, for any number of reasons, may not know whether their incarceration is a violation of the law. As in other instances where the trial court applies the doctrine of laches, determining what qualifies as an inexcusable delay would involve case-by-case analysis and careful review of the relevant facts. Also, even in cases where the delay is unreasonable, if the other side does not suffer prejudice from the delay, finding that the doctrine of laches applies would not be appropriate.

¶ 15 In applying the doctrine of laches to habeas petitions, we would be in line with other jurisdictions which permit this equitable bar. *See, e.g.*, *State ex. rel. Wren v. Richardson*, 936 N.W.2d 587, 593 (Wis. 2019) (stating that it is "clear that the State may raise laches as an affirmative defense to a habeas petition"); *Ex Parte Perez*, 398 S.W.3d 206, 215 (Tex. Crim. App. 2013) (applying the common-law doctrine of laches in state habeas petitions); *Ignacio v. People*, 2012 Guam 14 § 37 (providing that "habeas corpus may be denied if the petitioner was responsible for laches, which results in undue delay prejudicing the prosecution"); *Thomas v. State*, 903 P.2d 328, 330–31 (Okla. Crim. App. 1995) (citing *In re Smith*, 339 P.2d 796, 799 (Okla. Crim. App. 1959)) ("where petition for habeas corpus is delayed for a period of time so long that minds of trial judge and court attendants become clouded by time and uncertainty as to

what happened, or due to dislocation and death of witnesses, and loss of records, the rights sought to be asserted have become matters of speculation, right for relief by habeas corpus may be lost by laches"); *McCray v. State*, 699 So.2d 1366, 1368 (Fla. 1997) (stating that the doctrine of laches "is properly applied to habeas corpus petitions when the delay in bringing a claim for collateral relief has been unreasonable and the state has been prejudiced in responding to the claim" (internal quotations omitted)); *In re Douglas*, 132 Cal. Rptr. 3d 582, 588–89 (Cal. Dist. Ct. App. 2011) (providing that unreasonable delay "bars consideration of a petition for writ of habeas corpus under the doctrine of laches") (citing *People v. Miller*, 8 Cal. Rptr. 2d 193, 198–99 (Cal. Dist. Ct. App. 1992)). Thus, we find that the doctrine of laches may appropriately be applied to habeas petitions.

B. Applicability of Laches

¶ 16 Second, we review on a deferential abuse of discretion basis whether the trial court correctly applied laches in this case. *In re Estate of Rios*, 2008 MP 5 ¶ 8 (citing *O'Donnell v. Vencor, Inc.*, 466 F.3d 1104, 1109 (9th Cir. 2006)). We find that it did.

¶ 17 As the party asserting laches, DOC needed to demonstrate that Rios's conduct amounted to inexcusable delay in asserting a known right, and that DOC suffered prejudice from the delay. *In re Estate of Rios*, 2008 MP 5 ¶ 9 (citing *Bank of Saipan v. Martens*, 2007 MP 5 ¶ 7); *Matsunaga v. Cushnie*, 2012 MP 18 ¶ 19. There is no length of time which constitutes a per se inexcusable delay for laches; the inquiry is fact-based and depends on the circumstances in the case. *Matsunaga v. Cushnie*, 2012 MP 18 ¶ 20 (citing *Whitfield v. Anheuser-Busch, Inc.*, 820 F.2d 243, 245 (8th Cir. 1987). We recognize both evidentiary and economic prejudice. *Id.* ¶ 21. Evidentiary prejudice includes "lost, stale, or degraded evidence, or witnesses whose memories have faded or who have died." *Id.* (quoting *Danjaq, LLC v. Sony Corp.*, 263 F.3d 942, 955 (9th Cir. 2001)). Economic prejudice occurs when the party asserting laches acted in ways "or suffered consequences that it would not have, had the plaintiff brought suit promptly." *Id.* (quoting *Danjaq*, 263 F.3d at 955).

¶ 18 Regarding inexcusable delay of a known right, DOC not only noted that Rios brought a claim against his trial counsel almost seventeen years after the fact,[4] but also that Rios had demonstrated that he was aware of the legal right to effective assistance of counsel. Resp't's Br. 12. Previously, Rios had written a letter in 2012 claiming ineffective assistance of counsel at his revocation hearing. *Id.* The trial court held a hearing on the writ and provided an opportunity for Rios to respond to the assertion regarding any inexcusable delay in bringing suit, but he did not bring forth evidence to rebut DOC on the matter. *Rios v. Commonwealth*, Civ. No. 20–0081 (NMI Super. Ct. Dec. 4, 2020) (Order Denying Writ of Habeas Corpus 1–2). Based on the record, it was not an abuse

[4] Or almost five years after his final appeal, in the case of Rios's claims against his appellate counsel.

of discretion for the Superior Court to determine DOC had sufficiently demonstrated that Rios had inexcusably delayed asserting a known right.

¶ 19 As to prejudice, DOC claimed it had suffered evidentiary prejudice from the delay, because the audio recording of Rios's change of plea hearing had been lost. *Rios v. Commonwealth*, Civ. No. 20–0081 (NMI Super. Ct. Dec. 4, 2020) (Order Denying Writ of Habeas Corpus 11). DOC argued that the recording would have demonstrated Rios's understanding of the charges against him in the 2003 case, because Rios would have needed to give a detailed account of the incident in his own words in order for the judge to lawfully accept his guilty plea; DOC based this assertion on the typical procedures in place for such pleas. *Rios v. Commonwealth*, Civ. No. 20–0081 (NMI Super. Ct. July 27, 2020) (Hr'g Tr. 6). In response, Rios claimed that guilty pleas typically involve reciting generalities that track the elements of a crime, not specific actions by a defendant; however, Rios did not point to anything to support his argument. *Rios v. Commonwealth*, Civ. No. 20–0081 (NMI Super. Ct. Dec. 4, 2020) (Order Denying Writ of Habeas Corpus 11). Based on this, it was not an abuse of discretion for the trial court to likewise find DOC had met its burden of showing prejudice from the delay.

¶ 20 As stated above, there is no need to address the other issues Rios presents. The trial court determined that DOC met its burden in showing that the doctrine of laches should apply, and Rios did not sufficiently rebut its showing. On this factor alone, the trial court correctly denied the petition. When the doctrine of laches properly applies to a case, a court does not otherwise need to evaluate the merits.

V. CONCLUSION

¶ 21 We find that the doctrine of laches applies to habeas petitions. The Superior Court did not abuse its discretion in determining that Rios's petition was barred by laches, as DOC sufficiently demonstrated that there was an inexcusable delay of a known right causing prejudice to its case. For the foregoing reasons, we AFFIRM the trial court's denial of Rios's petition for writ of habeas corpus.

SO ORDERED this 1st day of April, 2022.

/s/
ALEXANDRO C. CASTRO
Chief Justice

/s/
JOHN A. MANGLOÑA
Associate Justice

/s/
PERRY B. INOS
Associate Justice

COUNSEL

Cong Nie, Banes Horey Berman & Miller, LLC, Saipan, MP, for Petitioner-Appellant.

J. Robert Glass, Jr., Chief Solicitor, Office of the Attorney General, Saipan, MP, for Respondents-Appellees.

NOTICE