

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2007-CP-02176-COA

ELLIS WILLIE DAWKINS

APPELLANT

v.

STATE OF MISSISSIPPI

APPELLEE

DATE OF JUDGMENT:	10/02/2007
TRIAL JUDGE:	HON. ANDREW K. HOWORTH
COURT FROM WHICH APPEALED:	MARSHALL COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT:	ELLIS WILLIE DAWKINS (PRO SE)
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: LADONNA C. HOLLAND
NATURE OF THE CASE:	CIVIL - POST-CONVICTION RELIEF
TRIAL COURT DISPOSITION:	MOTION FOR POST-CONVICTION RELIEF DISMISSED AS SUCCESSIVE WRIT
DISPOSITION:	AFFIRMED - 09/16/2008
MOTION FOR REHEARING FILED:	
MANDATE ISSUED:	

BEFORE LEE, P.J., ROBERTS AND CARLTON, JJ.

LEE, P.J., FOR THE COURT:

FACTS AND PROCEDURAL HISTORY

- ¶1. Ellis Willie Dawkins pleaded guilty to the capital rape of his ten-year-old daughter. The trial court sentenced Dawkins to twenty years with ten years suspended, ten years to serve in the custody of the Mississippi Department of Corrections, and five years of post-release supervision. Dawkins subsequently filed a motion for post-conviction relief. The motion was denied by the trial court, and Dawkins appealed to this Court. We found no merit to the appeal and affirmed the judgment of the trial court. *See Dawkins v. State*, 919 So. 2d 92, 99 (¶23) (Miss. Ct. App. 2005).
- ¶2. Dawkins filed another motion for post-conviction relief, which the trial court dismissed as

a successive writ. Dawkins now appeals asserting various issues, many of which were discussed in this Court's original opinion.

STANDARD OF REVIEW

¶3. A trial court's dismissal of a motion for post-conviction relief will not be reversed absent a finding that the trial court's decision was clearly erroneous. *Williams v. State*, 872 So. 2d 711, 712 (¶2) (Miss. Ct. App. 2004). However, when issues of law are raised, the proper standard of review is de novo. *Brown v. State*, 731 So. 2d 595, 598 (¶6) (Miss. 1999).

DISCUSSION

¶4. Under Mississippi Code Annotated section 99-39-23(6) (Rev. 2007), all successive petitions are barred if the prisoner has filed a previous post-conviction-relief motion. Dawkins's first motion for post-conviction relief was filed on October 2, 2003, and found by this Court to be without merit. Dawkins's second motion for post-conviction relief was filed on June 15, 2007, and thus was a successive writ. Furthermore, Dawkins has failed to point to an exception listed in section 99-39-23(6) to overcome the successive-writ bar. This issue is without merit.

¶5. **THE JUDGMENT OF THE MARSHALL COUNTY CIRCUIT COURT DISMISSING THE MOTION FOR POST-CONVICTION RELIEF IS AFFIRMED. ALL COSTS OF THIS APPEAL ARE ASSESSED TO MARSHALL COUNTY.**

KING, C.J., MYERS, P.J., IRVING, CHANDLER, GRIFFIS, BARNES, ISHEE, ROBERTS AND CARLTON, JJ., CONCUR.