

SUMMARY STATEMENT

Kevin Keith Bell v. State

Docket No. 50063

Kevin Keith Bell appeals from the district court's final judgment summarily dismissing his amended petition for post-conviction relief and the memorandum decision denying his motion to reconsider that judgment. Bell argues the district court erred by summarily dismissing his petition and denying his motion to reconsider because he was not provided with adequate notice of the bases for dismissal on some of his claims. He also argues his petition raised a genuine issue of material fact as to one claim of ineffective assistance of counsel.

Bell failed to preserve a challenge to either the sufficiency of the State's notice of the bases to summarily dismiss Bell's petition or the district court's alleged lack of notice prior to dismissing the petition. Bell was provided sufficient notice in the State's motion for summary disposition and its memorandum in support of the bases for summarily dismissing all the claims in Bell's amended petition for post-conviction relief, including those claims set forth in the original petition and incorporated into the amended petition. Because of that notice, the district court was not required to give Bell an additional twenty-days notice before dismissing the petition. Moreover, because Bell did not object in the district court to the lack of notice, he has failed to preserve the issue for appeal. The district court did not dismiss the amended petition on grounds different than those alleged by the State. Finally, the district court did not err in denying Bell's motion for reconsideration. Therefore, the Court of Appeals affirmed the district court's judgment and order dismissing Bell's amended petition for post-conviction relief and denying his motion to reconsider.

This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.