

RICHARD A. McEACHERN

v.

STATE OF MAINE

Argued September 10, 2014
Decided September 30, 2014

Panel: SILVER, MEAD, GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

Richard A. McEachern appeals from a judgment entered by the trial court (*Anderson, J.*) summarily dismissing his petition for post-conviction review on the grounds that it was not timely filed pursuant to 15 M.R.S. § 2128-B (2013). *See* M.R. Crim. P. 70(b). McEachern seeks collateral relief from his 1980 murder conviction on the basis that he was not provided with effective assistance of counsel during the plea bargaining process. On appeal, McEachern argues that the post-conviction court erred in dismissing his petition as untimely because it was filed within one year of several United States Supreme Court's decisions, which he contends recognized new constitutional rights for criminal defendants. *See Lafler v. Cooper*, 132 S. Ct. 1376 (2012); *Missouri v. Frye*, 132 S. Ct. 1399 (2012); *Martinez v. Ryan*, 132 S. Ct. 1309 (2012).

Contrary to McEachern's contentions, we conclude that the Superior Court did not err in concluding that the aforementioned Supreme Court decisions did not recognize new and retroactively applicable constitutional rights that would allow him to satisfy 15 M.R.S. § 2128-B's time limitations. *See Carmichael v. State*, 2007 ME 86, ¶¶ 10, 14-15, 927 A.2d 1172. *See also Pagan-San Miguel v. United States*, 736 F.3d 44-45 (1st Cir. 2013); *Buenrostro v. United States*, 697 F.3d 1137, 1139-40 (9th Cir. 2012); *Hare v. United States*, 688 F.3d 878, 879 (7th Cir. 2012);

In re Perez, 682 F.3d 930, 932-33 (11th Cir. 2012). Therefore, we conclude the Superior Court did not err in dismissing McEachern's petition on the basis that it was not timely. See 15 M.R.S. § 2128-B; *Carmichael*, 2007 ME 86, ¶ 8, 927 A.2d 1172; *Finch v. State*, 1999 ME 108, ¶ 1, 736 A.2d 1043.

The entry is:

Judgment affirmed.

On the briefs:

Jeffrey M. Silverstein, Esq., and Logan E. Perkins, Esq., Bangor, for appellant Richard McEachern

Janet T. Mills, Attorney General, and Donald W. Macomber, Asst. Atty. Gen., Office of the Attorney General, Augusta, for appellee State of Maine

At oral argument:

Logan E. Perkins, Esq., for appellant Richard McEachern

Donald W. Macomber, Asst. Atty. Gen., for appellee State of Maine