

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARIO JAIME-SALDIVAR,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43270

FILED

AUG 13 2004

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

On June 18, 2002, the district court convicted appellant, pursuant to a guilty plea, of lewdness on a child under the age of fourteen. The district court sentenced appellant to serve a term of life in the Nevada State Prison with the possibility of parole after ten years. The district court suspended appellant's sentence and placed him on probation for a period not to exceed five years. On March 27, 2003, the district court entered a written order revoking appellant's probation, causing the original sentence to be executed and awarding appellant with thirty-seven days of jail time credit. Appellant did not file a direct appeal.

On February 18, 2004, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On

April 20, 2004, the district court denied appellant's petition as untimely filed. This appeal followed.

Appellant filed his petition more than one and a half years after entry of the judgment of conviction. Thus, appellant's petition was untimely filed.¹ Appellant's petition was procedurally barred absent a demonstration of cause for the delay and prejudice.²

Appellant argued that his petition was timely filed because it was filed within one year of entry of the order revoking his probation. However, in his petition, appellant did not challenge the legality of his confinement after the revocation of his probation; rather, appellant challenged the validity of his judgment of conviction and sentence. Therefore, in order to be timely filed, appellant's petition had to be filed within one year after entry of the judgment of conviction.³ Because appellant did not demonstrate cause for the delay in filing his petition, we conclude that the district court did not err in determining that appellant's petition was untimely filed.


¹See NRS 34.726(1).

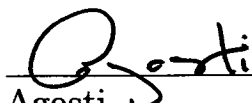
²See id.

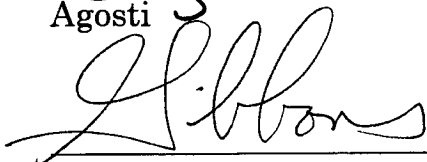
³See id.; Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998).

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.⁴ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁵


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Hon. Steven P. Elliott, District Judge
Mario Jaime-Saldivar
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

⁴See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁵We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.