

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRIAN E. LAUSEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 43701

FILED

NOV 29 2004

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Jennifer Togliatti, Judge.

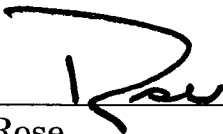
On March 14, 2003, the district court convicted appellant, pursuant to a guilty plea, of one count of attempted lewdness with a child under the age of fourteen and one count of attempted sexual assault. The district court sentenced appellant to serve a term of four years in the Nevada State Prison for the attempted lewdness count and a concurrent term of two to four years for the attempted sexual assault. No direct appeal was taken.


On May 8, 2004, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. 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 July 29, 2004, the district court denied appellant's petition. This appeal followed.

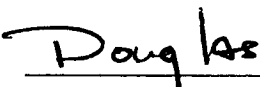
Appellant filed his petition more than one year after entry of the judgment of conviction. Thus, appellant's petition was untimely filed.¹ Appellant's petition was procedurally barred absent a demonstration of cause for the delay and prejudice.² Appellant did not attempt to demonstrate good cause for the delay. Thus, we affirm the order of the district court denying appellant's petition as procedurally time-barred.

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.³ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁴


_____, J.
Rose


_____, J.
Maupin


_____, J.
Douglas

¹See NRS 34.726(1).

²See id.

³See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁴We have received appellant's request for the appointment of counsel, and we deny the request as moot.

cc: Hon. Jennifer Togliatti, District Judge
Brian E. Lausen
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk