

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDWIN NEIL RENNELLS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44040

FILED

FEB 17 2005

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order dismissing appellant's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

On June 21, 2001, appellant Edwin Neil Rennells was convicted, pursuant to a nolo contendere plea, of one count of lewdness with a child under the age of 14 years. The district court sentenced Rennells to serve a prison term of 24 to 120 months and ordered him to serve a special sentence of lifetime supervision. Rennells appealed, and this court affirmed the judgment of conviction.¹ The remittitur issued on January 14, 2002.

On March 18, 2004, Rennells filed a proper person post-conviction petition for a writ of habeas corpus. The district court appointed counsel to represent Rennells, and counsel filed a supplement to the petition. The State filed a motion to dismiss the petition and supplement. Without conducting an evidentiary hearing, the district court dismissed the petition.

¹Rennells v. State, Docket No. 38104 (Order of Affirmance, December 17, 2001).

Rennells filed his post-conviction habeas petition more than two years after this court issued the remittitur in his direct appeal. Therefore, Rennells' petition was untimely filed and procedurally barred absent a demonstration of good cause for the delay and prejudice.² "[G]ood cause necessary to overcome a procedural bar must be some impediment external to the defense."³ The district court's ruling with respect to good cause will not generally be disturbed absent an abuse of discretion.⁴

Rennells claims that he had good cause for the delay in filing the petition because "he was unaware of the proper means of seeking [post-conviction] relief." Rennells also argues that his trial counsel was ineffective for not advising him of the direct consequence of lifetime supervision.⁵ We conclude that the district court did not err in dismissing the untimely petition.

This court has recognized that ignorance of the availability of post-conviction legal remedies is not an impediment external to the defense and therefore does not constitute good cause.⁶ Likewise, this court has expressly held that allegations of ineffective assistance of counsel do

²See NRS 34.726(1).

³Harris v. Warden, 114 Nev. 956, 959, 964 P.2d 785, 787 (1998).

⁴See Colley v. State, 105 Nev. 235, 773 P.2d 1229 (1989).

⁵Rennells argues that, even though he was advised of the lifetime supervision sentence in the guilty plea agreement and at the plea canvass, he was unaware that lifetime supervision would be imposed because his counsel failed to discuss it with him.


⁶See Phelps v. Director, Prisons, 104 Nev. 656, 764 P.2d 1303 (1988), abrogated on other grounds by State v. Haberstroh, 119 Nev. 173, 69 P.3d 676 (2003).

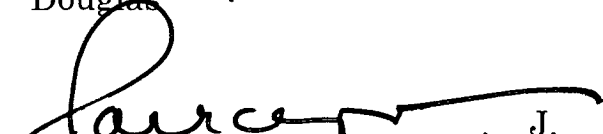
not constitute good cause because such claims do not involve an impediment external to the defense.⁷ Accordingly, we conclude that the district court did not err in dismissing the untimely petition. Rennells failed to establish good cause for the delay by showing that an impediment external to the defense prevented him from filing a timely petition.

Having considered Rennells' contentions and concluded that they lack merit, we

ORDER the judgment of the district court AFFIRMED.


Maupin


Douglas


Parraguirre

cc: Hon. Connie J. Steinheimer, District Judge
Mary Lou Wilson
Attorney General Brian Sandoval/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

⁷Harris, 114 Nev. at 959, 964 P.2d at 787.