

IN THE SUPREME COURT OF THE STATE OF NEVADA

DWIGHT HANZY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 44640

FILED

MAY 03 2005

ORDER OF AFFIRMANCE

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

This is a proper person appeal from an order of the district court denying appellant Dwight Hanzy's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

On May 7, 2001, the district court convicted Hanzy, pursuant to a guilty plea, of burglary. The district court sentenced Hanzy to serve a term of 48 to 120 months in the Nevada State Prison. The sentence was imposed to run consecutively to Hanzy's sentence in district court case number C168666. This court affirmed Hanzy's judgment of conviction and sentence on appeal.¹ The remittitur issued on November 7, 2001.

On September 23, 2004, Hanzy filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. Hanzy filed a reply. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent Hanzy or to conduct an evidentiary hearing. On January 3, 2005, the district court denied Hanzy's petition. This appeal followed.

¹Hanzy v. State, Docket No. 37917 (Order of Affirmance, October 12, 2001).

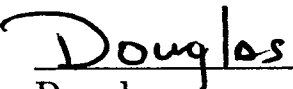
Hanzy filed his petition nearly three years after this court issued the remittitur from his direct appeal. Thus, Hanzy's petition was untimely filed.² His petition was procedurally barred absent a demonstration of cause for the delay and prejudice.³

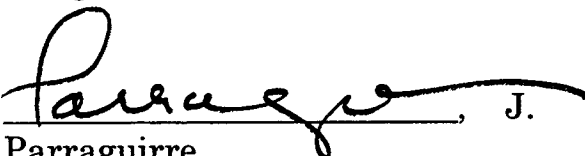
Hanzy did not attempt to demonstrate good cause for his delay. Rather, he incorrectly asserted that his petition was timely filed. Hanzy therefore failed to establish good cause to excuse his delay. Further, Hanzy did not demonstrate that he would be unduly prejudiced by application of the procedural time bar because the claims he raised were without merit. Thus, we conclude that the district court did not err in denying Hanzy's petition as procedurally barred.

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

ORDER the judgment of the district court AFFIRMED.


_____, J.
Maupin


_____, J.
Douglas


_____, J.
Parraguirre

²See NRS 34.726(1).

³See *id.*

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

cc: Hon. Donald M. Mosley, District Judge
Dwight Hanzy
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk