

IN THE SUPREME COURT OF THE STATE OF NEVADA

DERRICK EVERETT BISHOP,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 44668

**FILED**

MAY 19 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richard*  
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; Janet J. Berry, Judge.

On February 18, 1999, the district court convicted appellant, pursuant to a guilty plea, of attempted lewdness with a child under the age of fourteen. The district court sentenced appellant to serve a term of thirty-two to one hundred forty-four months in the Nevada State Prison. The district court also imposed a special sentence of lifetime supervision. Appellant did not file a direct appeal.

On April 6, 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 May 7, 2004, the district court denied appellant's petition. This appeal followed.

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

In an attempt to demonstrate cause for the delay, appellant argued that his petition was within the one-year time limit because he had not started to serve the special sentence of lifetime supervision and he just found out that lifetime supervision is punitive rather than non-punitive in nature. We conclude that appellant did not establish that an impediment external to the defense prevented him from raising his claims earlier.<sup>3</sup> Accordingly, we conclude that the district court did not err in denying appellant's petition.

To the extent that appellant's petition can be construed as a motion to correct an illegal sentence, appellant's claims fell outside the very narrow scope of claims permissible in a motion to correct an illegal sentence.<sup>4</sup> Therefore, we affirm the order of the district court.

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<sup>1</sup>See NRS 34.726(1).

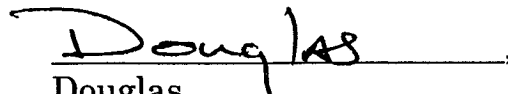
<sup>2</sup>See id.

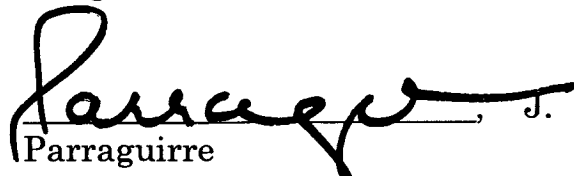
<sup>3</sup>See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

<sup>4</sup>See Edwards v. State, 112 Nev. 704, 918 P.2d 321 (1996).

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.<sup>5</sup> Accordingly, we  
ORDER the judgment of the district court AFFIRMED.

 J.  
Maupin

 J.  
Douglas

 J.  
Parraguirre

cc: Hon. Janet J. Berry, District Judge  
Derrick Everett Bishop  
Attorney General Brian Sandoval/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk

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<sup>5</sup>See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).