

IN THE SUPREME COURT OF THE STATE OF NEVADA

AMALIA LYNN BOYER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 45158

**FILED**

JUL 0 5 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. R. [Signature]*  
CHIEF DEPUTY CLERK

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; Donald M. Mosley, Judge.

On August 3, 1999, the district court convicted appellant, pursuant to a guilty plea, of one count of second degree murder with the use of a deadly weapon. The district court sentenced appellant to serve two consecutive terms of ten to twenty-five years in the Nevada State Prison. No direct appeal was taken.

On September 19, 2000, appellant filed a motion for sentence modification. On October 2, 2000, the district court denied the motion. No appeal was taken.

On March 2, 2005, appellant filed a proper person post-conviction petition for a writ of habeas corpus and a motion for discretionary review 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 12, 2005, the district court denied appellant's petition. This appeal followed.<sup>1</sup>

Appellant filed her petition more than five years after entry of the judgment of conviction. Thus, appellant's petition was untimely filed.<sup>2</sup> Appellant's petition was procedurally barred absent a demonstration of cause for the delay and prejudice.<sup>3</sup>

Appellant argued that her delay should be excused because she was only sixteen years old at the time of the conviction, was without an education and had no understanding of a post-conviction petition for a writ of habeas corpus. None of these reasons amounts to good cause.<sup>4</sup> Thus, we conclude that the district court properly determined that appellant's petition was procedurally time barred.

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<sup>1</sup>We conclude that the district court did not abuse its discretion in denying appellant's motion for discretionary review.

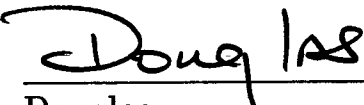
<sup>2</sup>See NRS 34.726(1).

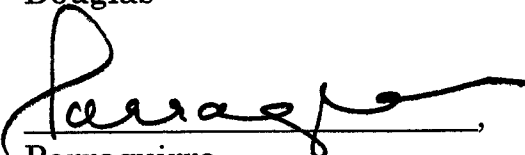
<sup>3</sup>See id.

<sup>4</sup>See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994); Phelps v. Director, Prisons, 104 Nev. 656, 764 P.2d 1303 (1988).

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. Donald M. Mosley, District Judge  
Amalia Lynn Boyer  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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