

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHERMAN BLOCK,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 45482

**FILED**

SEP 20 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. P. [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; Sally L. Loehrer, Judge.

On January 29, 2001, the district court convicted appellant, pursuant to an Alford plea,<sup>1</sup> of one count of sexual assault and one count of lewdness with a child under the age of fourteen years. The district court sentenced appellant to serve two concurrent terms of life in the Nevada State Prison with the possibility of parole. This court dismissed appellant's untimely appeal from his judgment of conviction and sentence for lack of jurisdiction.<sup>2</sup>

On October 4, 2001, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The

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<sup>1</sup>North Carolina v. Alford, 400 U.S. 25 (1970).

<sup>2</sup>Block v. State, Docket No. 38601 (Order Dismissing Appeal, October 30, 2001).

State opposed the petition. On January 15, 2002, the district court denied the petition. This court affirmed the order of the district court.<sup>3</sup>

On August 31, 2004, appellant filed a second proper person post-conviction petition for a writ of habeas corpus in the district court. The State opposed the petition. On November 17, 2004, the district court denied the petition. This court dismissed appellant's subsequent appeal because it was untimely filed.<sup>4</sup>

On April 4, 2005, appellant filed a third 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 May 27, 2005, the district court denied appellant's petition. This appeal followed.

Appellant filed his petition more than four years after entry of the judgment of conviction. Thus, appellant's petition was untimely filed.<sup>5</sup> Moreover, appellant's petition was an abuse of the writ because he had previously filed two post-conviction petitions for writs of habeas corpus and raised new or different grounds from those raised in the prior

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<sup>3</sup>Block v. State, Docket No. 39389 (Order of Affirmance, December 19, 2002).

<sup>4</sup>Block v. State, Docket No. 44651 (Order Dismissing Appeal, June 1, 2005).

<sup>5</sup>See NRS 34.726(1).

petitions.<sup>6</sup> Appellant's petition was procedurally barred absent a demonstration of good cause and prejudice.<sup>7</sup>

In an attempt to excuse his procedural defects, appellant provided this statement, "NRS 34.185-320-360 (1969) all writs act are not subject to original jurisdiction matters of court of record ex post facto matters outside the record time bars, legislative bill of attainder indictment laws." Appellant also appeared to argue that his trial counsel's failure to perfect a direct appeal excused his procedural defects.

Based upon our review of the record on appeal, we conclude that the district court did not err in determining that appellant failed to demonstrate good cause. Appellant's statement of good cause is unintelligible, and thus, it did not excuse his procedural defects.<sup>8</sup> An allegation that counsel failed to file a direct appeal is not good cause in the circumstances in presented in the instant case.<sup>9</sup> Therefore, we affirm the order of the district court denying appellant's petition.

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<sup>6</sup>See NRS 34.810(2).

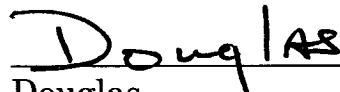
<sup>7</sup>See NRS 34.726(1); NRS 34.810(3).


<sup>8</sup>See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994) (holding that good cause must be an impediment external to the defense).

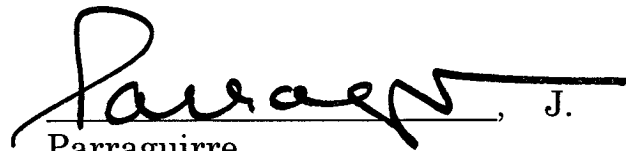
<sup>9</sup>See Hathaway v. State, 119 Nev. 248, 71 P.3d 503 (2003); Harris v. Warden, 114 Nev. 956, 964 P.2d 785 (1998).

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>10</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>11</sup>

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Parraguirre

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<sup>10</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

<sup>11</sup>We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.

cc: Hon. Sally L. Loehrer, District Judge  
Sherman Block  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk