

IN THE SUPREME COURT OF THE STATE OF NEVADA

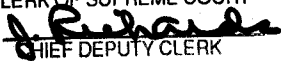
RICHARD ALLEN BRAWNER, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 46100

**FILED**

FEB 17 2006

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

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

On April 19, 2002, the district court convicted appellant, pursuant to a guilty plea, of four counts of lewdness with a child under the age of fourteen. The district court sentenced appellant to serve four terms of life in the Nevada State Prison with the possibility of parole after a minimum of thirty years. This court affirmed appellant's judgment of conviction and sentence.<sup>1</sup> The remittitur issued on March 16, 2004.

On March 18, 2005, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State moved to dismiss 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 September 27, 2005, the district court dismissed appellant's petition. This appeal followed.

Appellant filed his petition more than one year after this court issued the remittitur from his direct appeal. Thus, appellant's petition

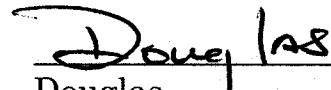
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<sup>1</sup>Brawner, Jr. v. State, Docket No. 39598 (Order of Affirmance, February 18, 2004).

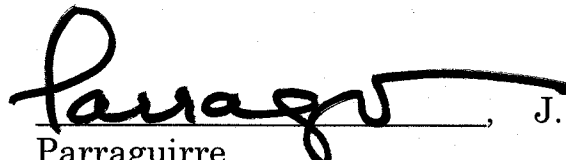
was untimely filed.<sup>2</sup> Appellant's petition was procedurally barred absent a demonstration of good cause for the delay and prejudice.<sup>3</sup> Appellant did not attempt to demonstrate good cause for the delay.<sup>4</sup> Appellant failed to demonstrate that an impediment external to the defense excused his procedural defects.<sup>5</sup> Thus, we conclude that the district court did not err in procedurally barring appellant's petition.

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>6</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

  
\_\_\_\_\_, J.  
Becker

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

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

<sup>3</sup>See *id.*

<sup>4</sup>See NRS 34.735; see also *State v. Haberstroh*, 119 Nev. 173, 180-81, 69 P.3d 676, 681-82 (2003) (recognizing that NRS chapter 34 requires a demonstration of good cause on the face of the petition).

<sup>5</sup>See *Hathaway v. State*, 119 Nev. 248, 71 P.3d 503 (2003); *Lozada v. State*, 110 Nev. 349, 871 P.2d 944 (1994).

<sup>6</sup>See *Luckett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

cc: Hon. Connie J. Steinheimer, District Judge  
Richard A. Brawner, Jr.  
Attorney General George Chanos/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk