

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL RAY REEVES,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 46101

**FILED**

**FEB 24 2006**

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 dismissing appellant's post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

On December 13, 2000, the district court convicted appellant, pursuant to a guilty plea, of one count each of discharging a firearm into a building or room, resisting or obstructing a public officer with a dangerous weapon and possession of a stolen motor vehicle. The district court sentenced appellant to serve multiple consecutive terms totaling thirteen to one hundred sixty-eight months in the Nevada State Prison. Appellant did not file a direct appeal.

On December 17, 2001, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. Pursuant to NRS 34.750, the district court appointed counsel to represent appellant. On February 25, 2003, the district court dismissed appellant's



petition as untimely filed. This court affirmed the dismissal of the petition on appeal.<sup>1</sup>

On February 3, 2005, appellant filed a second proper person post-conviction petition for a writ of habeas corpus in the district court. The district court appointed counsel to assist appellant, and counsel filed a supplemental petition. The State moved to dismiss the petition and its supplement on the basis that they were procedurally barred. Pursuant to 34.770, the district court declined 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 four 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 good cause for the delay and prejudice.<sup>3</sup> To demonstrate good cause, a petitioner must demonstrate that an impediment external to the defense prevented him from filing a timely petition.<sup>4</sup>

In an attempt to demonstrate cause for the delay, appellant argued that he was unable to raise his claim earlier because he did not receive his case file from his trial counsel until December 29, 2004. Appellant failed to demonstrate that an impediment external to the defense prevented him from filing a timely petition. In Hood v. State, this

---

<sup>1</sup>Reeves v. State, Docket No. 41143 (Order of Affirmance, October 13, 2003).

<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).


court specifically held that trial counsel's failure to turn over a petitioner's files did not constitute good cause to excuse an untimely petition.<sup>5</sup> Accordingly, we conclude that the district court did not err in dismissing appellant's petition as untimely filed.

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

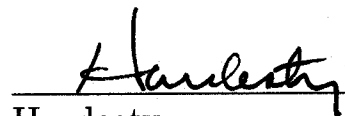
ORDER the judgment of the district court AFFIRMED.

 \_\_\_\_\_ J.

Maupin

 \_\_\_\_\_ J.

Gibbons

 \_\_\_\_\_ J.

Hardesty

cc: Hon. Brent T. Adams, District Judge  
Michael Ray Reeves  
Attorney General George Chanos/Carson City  
Washoe County District Attorney Richard A. Gammick  
Washoe District Court Clerk

---

<sup>5</sup>111 Nev. 335, 338, 890 P.2d 797, 798 (1995).

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