

IN THE SUPREME COURT OF THE STATE OF NEVADA

NOEL BERNARDO CANLAS A/K/A
NOEL CANLES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46743

FILED

SEP 19 2006

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

ORDER OF AFFIRMANCE

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. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Judge.

On April 30, 2004, the district court convicted appellant, pursuant to a guilty plea, of three counts of attempted lewdness with a minor under the age of fourteen. The district court sentenced appellant to serve three concurrent terms of 84 to 240 months in the Nevada State Prison. Appellant did not file a direct appeal.

On November 15, 2005, appellant filed a 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 January 30, 2006, the district court denied appellant's petition. This appeal followed.

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

In an attempt to demonstrate cause for his delay, appellant argued that he had inadequate access to the law library because he did not speak or read the English language and there was no one that could translate from his native language, Tagalog, to assist with preparation of his petition until recently.

Based upon our review of the record on appeal, we conclude that the district court did not err in dismissing appellant's petition. Appellant failed to demonstrate that an impediment external to the defense excused his procedural defects.³ The transcript of appellant's plea canvass demonstrates that appellant had a firm grasp on the English language. Trial counsel commented to the district court that appellant thoroughly understood English and read English very well. The district court noted that appellant had a command of the English language. Appellant failed to demonstrate that he could not adequately access the law library and file his petition within the one-year limit. Therefore, we conclude that appellant's petition was procedurally time barred.

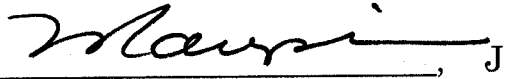
¹See NRS 34.726(1).

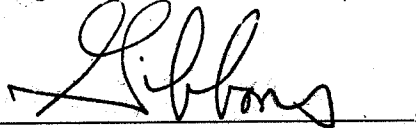
²See *id.*


³See 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.⁴ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁵


_____, J.
Maupin


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Joseph T. Bonaventure, District Judge
Noel Bernardo Canlas
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁴See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁵We 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. Thus, appellant's motion for appointment of appellate counsel is denied.