

IN THE SUPREME COURT OF THE STATE OF NEVADA

ADOLFO MARQUEZ PEREZ,
Appellant,

vs.

THE STATE OF NEVADA,
Respondent.

ADOLFO MARQUEZ PEREZ,
Appellant,

vs.

THE STATE OF NEVADA,
Respondent.

ADOLFO MARQUEZ PEREZ,
Appellant,

vs.

THE STATE OF NEVADA,
Respondent.

No. 46882

FILED

JUL 06 2006

No. 46883

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Bloom*
CHIEF DEPUTY CLERK

No. 46884

ORDER OF AFFIRMANCE

These are proper person appeals 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; Steven R. Kosach, Judge. We elect to consolidate these appeals for dispositional purposes.¹

On February 11, 2003, the district court convicted appellant in three district court cases, pursuant to guilty pleas, of a total of three

¹See NRAP 3(b).

counts of trafficking in a controlled substance. The district court sentenced appellant to serve three consecutive terms of ten to twenty-five years in the Nevada State Prison. This court affirmed the judgments of conviction and sentences on appeal.² The remittitur issued on March 9, 2004.

On November 1, 2005, appellant filed a single proper person post-conviction petition for a writ of habeas corpus in the three district court cases. 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 February 10, 2006, the district court dismissed appellant's petition. This appeal followed.

Appellant filed his petition more than one and a half years after this court issued the remittitur from his direct appeal. Thus, appellant's petition was untimely filed.³ Appellant's petition was procedurally barred absent a demonstration of good cause for the delay and prejudice.⁴

In an attempt to demonstrate cause for the delay, appellant argued that his direct appeal counsel never notified him that his direct

²Perez v. State, Docket Nos. 40996, 40997, 40998 (Order of Affirmance, February 11, 2004).

³See NRS 34.726(1).

⁴See id.

appeal had been denied. Appellant states that he did not find out about the denial of his direct appeal until August 18, 2005, after the one year time limit for filing a petition had run.

Based upon our review of the record on appeal, we conclude that the district court did not err in determining that the petition was procedurally barred. Appellant failed to demonstrate that an impediment external to the defense prevented him from complying with the procedural rules.⁵ Appellant found out about the denial of his appeal from a source other than his attorney. Appellant failed to demonstrate that he could not have obtained this same information within the one year time limit for filing his petition. Accordingly, we conclude the district court did not err in dismissing appellant's petition.

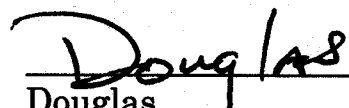
Moreover, as a separate and independent ground for denying appellant's petition, appellant failed to articulate a specific claim of ineffective assistance of counsel, or provide any facts to support any such claim.⁶

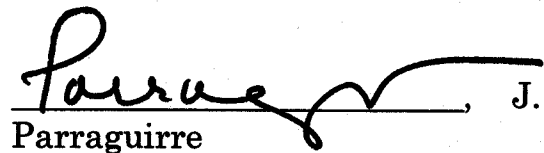
⁵See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994); Hathaway v. State, 119 Nev. 248, 71 P.3d 503 (2003).

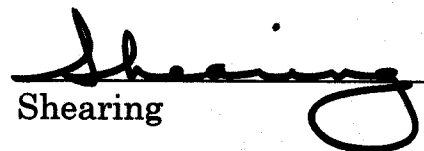
⁶See Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984).

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.⁷ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁸


_____, J.
Douglas


_____, J.
Parraguirre


_____, Sr. J.
Shearing

cc: Hon. Steven R. Kosach, District Judge
Adolfo Marquez Perez
Attorney General George Chanos/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

⁷See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁸The Honorable Miriam Shearing, Senior Justice, participated in the decision of this matter under general orders of assignment entered January 6, 2006.