

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARRIO MORELAND,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 47860

FILED

JAN 08 2007

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

ORDER OF AFFIRMANCE

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. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

On January 20, 2004, the district court convicted appellant, pursuant to a guilty plea, of voluntary manslaughter with the use of a deadly weapon. The district court sentenced appellant to serve two consecutive terms of 48 to 120 months in the Nevada State Prison. This court affirmed appellant's judgment of conviction and sentence on direct appeal.¹ The remittitur issued on June 22, 2004.

On May 24, 2006, 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

¹Moreland v. State, Docket No. 42825 (Order of Affirmance, May 28, 2004).

conduct an evidentiary hearing. On August 29, 2006, the district court dismissed appellant's petition. This appeal followed.

Appellant filed his petition approximately two years after this court issued the remittitur from his direct appeal. Thus, appellant's petition was untimely filed.² Appellant's petition was procedurally barred absent a demonstration of good cause and prejudice.³

In an attempt to excuse his procedural defects, appellant argued that his petition should not be procedurally barred because he is a paranoid schizophrenic and was not capable of filing a timely petition. Appellant contended that his need to rely on his family to find outside legal assistance to compile his claims and issues, and inmate law clerks to read what had been compiled, constituted good cause for his delay in filing.

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 adequate cause to excuse his procedural defects. Appellant failed to demonstrate that an impediment external to the defense excused his procedural defects.⁴ Appellant's mental disorder and lack of legal

²See NRS 34.726(1).

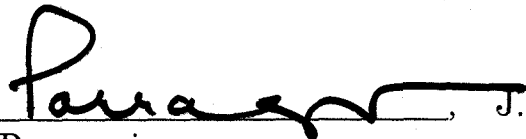
³See id.


⁴See Hathaway v. State, 119 Nev. 248, 71 P.3d 503 (2003); Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

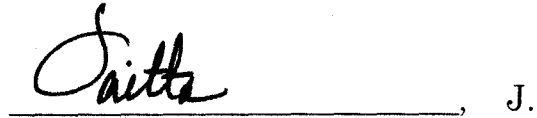
assistance are not good cause.⁵ Therefore, we affirm the order of the district court dismissing appellant's petition.

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.⁶ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


Parraguirre


Hardesty


Saitta

cc: Hon. Michelle Leavitt, District Judge
Marrio Qunta Moreland
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

⁵See Phelps v. Director, Prisons, 104 Nev. 656, 764 P.2d 1303 (1988) (holding that organic brain damage and lack of legal assistance are not sufficient good cause).

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