


IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY THOMAS CHERNETSKY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 48133

**FILED**

JUL 17 2007

JUANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from the denial of a postconviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

On November 17, 1994, appellant Anthony Thomas Chernetsky was convicted, pursuant to an Alford<sup>1</sup> plea, of first-degree murder. He was sentenced to serve a term of life in prison without the possibility of parole. No direct appeal was filed. After the time to file a direct appeal had lapsed, Chernetsky unsuccessfully moved the district court to allow him to file a late direct appeal. On October 4, 1995, this court dismissed Chernetsky's appeal from the district court's denial of his motion.

On May 26, 2006, Chernetsky filed the instant postconviction petition for a writ of habeas corpus. The district court dismissed the petition as untimely. This appeal followed.

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<sup>1</sup>North Carolina v. Alford, 400 U.S. 25 (1970).

Chernetsky filed his petition more than 11 years after entry of the judgment of conviction. Thus, his petition was untimely filed.<sup>2</sup> The petition was procedurally barred absent a demonstration of cause for the delay and prejudice.<sup>3</sup>

In an attempt to demonstrate cause for the delay, Chernetsky argued that this court failed to advise him in its October 4 order that he could potentially raise direct appeal claims in a postconviction habeas petition if he could establish a meritorious claim based on Lozada v. State.<sup>4</sup> Had he been so advised, he argued, he would have timely filed the instant petition.

Other than referencing several unpublished orders in which this court has so advised petitioners, Chernetsky provides us with no authority for the proposition that this court has a duty to advise petitioners of the Lozada remedy. And Lozada did not in any way alter Chernetsky's right to file a postconviction petition for a writ of habeas corpus or the obligation that he do so in a timely manner. Further, our review of the appendix Chernetsky filed in this court reveals that he was aware of Lozada: he cited that case in his original pro per motion to the district court seeking permission to file a late direct appeal.

Chernetsky failed to demonstrate good cause for his failure to file a timely petition. We therefore conclude the district court did not err in dismissing the petition as untimely.

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

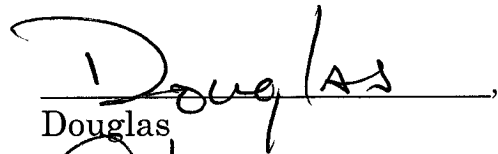
<sup>3</sup>See id.

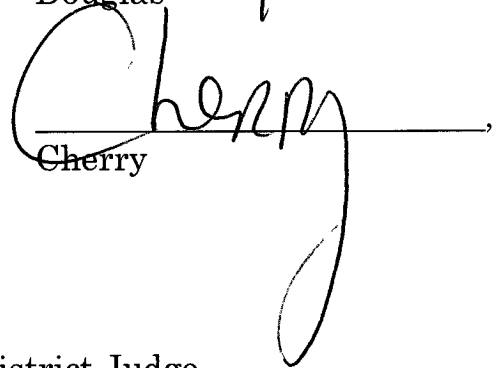
<sup>4</sup>110 Nev. 349, 871 P.2d 944 (1994).

Having reviewed Chernetsky's argument and concluded he is not entitled to relief, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Gibbons

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

  
\_\_\_\_\_, J.  
Cherry

cc: Hon. Donald M. Mosley, District Judge  
Federal Public Defender/Las Vegas  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk