

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD STEVEN MOONEY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 48163

**FILED**

**FEB 13 2007**

ORDER OF AFFIRMANCE

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

This is a proper person appeal from an order of the district court dismissing a post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Michael A. Cherry, Judge.

On December 20, 2002, the district court convicted appellant, pursuant to a guilty plea, of one count of attempted battery constituting domestic violence (felony) and one count of aggravated stalking. The district court sentenced appellant to serve consecutive terms of nineteen to forty-eight months and seventy-two to one hundred and eighty months in the Nevada State Prison. The district court suspended the sentences and placed appellant on probation for a period not to exceed five years. No direct appeal was taken from the judgment of conviction. On January 21, 2005, the district court entered an order revoking probation and modified the sentence so that the terms would run concurrently. Appellant was further provided with six hundred and sixty-three days of credit for time served. No appeal was taken from the order revoking probation.

On June 30, 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 conduct an evidentiary hearing. On August 24, 2006, the district court dismissed appellant's petition. This appeal followed.<sup>1</sup>

In his petition, appellant challenged the validity of his judgment of conviction.<sup>2</sup> Appellant filed his petition approximately three and one-half years after entry of the judgment of conviction. Thus, appellant's petition was untimely filed.<sup>3</sup> Appellant's petition was procedurally barred absent a demonstration of cause for the delay and prejudice.<sup>4</sup> Appellant did not attempt to demonstrate good cause to excuse his delay, and thus, we conclude that the district court did not err in dismissing appellant's petition.<sup>5</sup>

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<sup>1</sup>Appellant filed a motion for reconsideration in the district court after the denial of his petition. To the extent that appellant appeals from the decision to deny his motion, we lack jurisdiction as no statute or court rule permits for an appeal from the denial of a motion for reconsideration. See Phelps v. State, 111 Nev. 1021, 900 P.2d 344 (1995).

<sup>2</sup>Appellant did not challenge the decision to revoke probation.

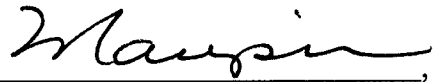
<sup>3</sup>See NRS 34.726(1).


<sup>4</sup>See id.

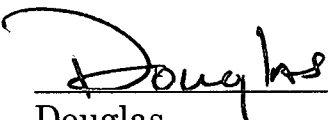
<sup>5</sup>See Hathaway v. State, 119 Nev. 248, 71 P.3d 503 (2003); Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

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.<sup>7</sup>

  
\_\_\_\_\_, C.J.  
Maupin

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

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

cc: Eighth Judicial District Court Dept. 17, District Judge  
Richard Steven Mooney  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk

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

<sup>7</sup>We 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. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.