

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD LEE KIGER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48206

FILED

FEB 05 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 denying appellant's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure, Judge.

On November 18, 2004, the district court convicted appellant, pursuant to a guilty plea, of one count of securities fraud. The district court sentenced appellant to serve a term of 24 to 60 months in the Nevada State Prison. Appellant's sentence was suspended and appellant was placed on probation for a fixed term of five years. Appellant did not file a direct appeal. Appellant unsuccessfully sought post-conviction relief through a motion to correct an illegal sentence.¹

On July 10, 2006, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court.² The State moved to dismiss the petition and appellant filed an opposition to the motion to dismiss. Pursuant to NRS 34.750 and 34.770, the district

¹Kiger v. State, Docket No. 47553 (Order of Affirmance, September 25, 2006).

²Appellant filed a duplicate petition on July 18, 2006. Neither petition was in the form required by NRS 34.735.

court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On October 31, 2006, the district court denied appellant's petition. This appeal followed.

Appellant filed his petition more than one and one-half years after entry of the judgment of conviction. 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 he was unable to file the petition sooner because he is incarcerated in Kansas and did not have access to Nevada law until the correctional center recently acquired Lexis Nexis. Based upon our review of the record on appeal, we conclude that the district court did not err in denying appellant's petition. Appellant's assertion that he could not have raised his claim sooner is belied by the record. The record reveals that on April 25, 2006, appellant filed a motion to correct an illegal sentence in which he raised a claim that was nearly identical to the claim raised in the instant petition. Further, appellant's lack of legal training and ignorance of Nevada law does not constitute good cause to excuse the untimely filing of a post-conviction petition for a writ of habeas corpus.⁵ Therefore, we affirm the order of the district court denying appellant's petition.

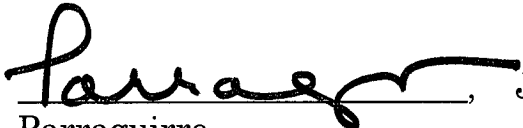
³See NRS 34.726(1).

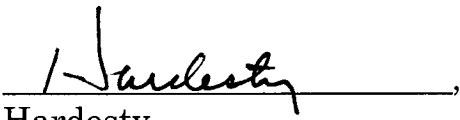
⁴See id.

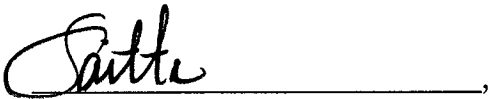
⁵See Phelps v. Director, Prisons, 104 Nev. 656, 764 P.2d 1303 (1988).

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.⁶ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁷

 J.
Parraguirre

 J.
Hardesty

 J.
Saitta

cc: Hon. Joseph T. Bonaventure, District Judge
Richard Lee Kiger
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

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

⁷We 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.