

IN THE SUPREME COURT OF THE STATE OF NEVADA

LOREN MAURICE JONES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 48485

FILED

MAY 22 2007

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Roberts*
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. Second Judicial District Court, Washoe County; Janet J. Berry, Judge.

On January 8, 2004, the district court convicted appellant, pursuant to a guilty plea, of one count of possession of a controlled substance. The district court sentenced appellant to serve a term of twelve to thirty months in the Nevada State Prison. The district court ordered that this sentence run consecutively with the sentence imposed in district court case number CR01-1206A. The district court suspended the sentence and placed appellant on probation for a period not to exceed two years. The term of probation was imposed to run concurrently with the probationary term imposed in district court case number CR01-1206A. On February 7, 2006, the district court revoked appellant's probation, executed the original sentence and provided appellant with 72 days of credit. No direct appeal was taken.

On October 12, 2006, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. 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

October 24, 2006, the district court dismissed appellant's petition. This appeal followed.

In his petition, appellant challenged the validity of his judgment of conviction and sentence. Specifically, appellant claimed that his trial counsel was ineffective at sentencing and that he was not competent to waive the preparation of a new presentence investigation report.

Appellant filed his petition more than two and one-half years after entry of the judgment of conviction. Thus, appellant's petition was untimely filed.¹ Appellant's petition was procedurally barred absent a demonstration of cause for the delay and prejudice.²

In an attempt to demonstrate cause for the delay, appellant asserted that he was not mentally prepared to file the petition earlier. Appellant failed to demonstrate that an impediment external to the defense prevented him from filing a timely petition, and thus, we conclude that the district court did not err in dismissing the petition as procedurally time-barred.³

¹See NRS 34.726(1). Because appellant did not challenge the order revoking probation, the order revoking probation does not provide good cause for the late filing of his petition. See Sullivan v. State, 120 Nev. 537, 96 P.3d 761 (2004).

²See id.

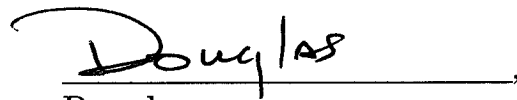
³See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994) (holding that good cause must be an impediment external to the defense); Phelps v. Director, Prisons, 104 Nev. 656, 764 P.2d 1303 (1988) (holding that a petitioner's organic brain damage or poor assistance from inmate law clerks did not amount to good cause).

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.⁴ Accordingly, we

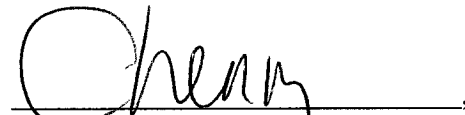
ORDER the judgment of the district court AFFIRMED.

 J.

Gibbons

 J.

Douglas

 J.

Cherry

cc: Hon. Janet J. Berry, District Judge
Loren Maurice Jones
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

⁴See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).