

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL JOSEPH QUATTRINI,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 50042

**FILED**

DEC 24 2007

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY S. Young  
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; David B. Barker, Judge.

On August 1, 2002, the district court convicted appellant, pursuant to a jury verdict, of six counts of lewdness with a minor under the age of fourteen, one count of sexual assault of a minor under the age of fourteen with the use of a deadly weapon, two counts of sexual assault of a minor under the age of fourteen, one count of sexual assault of a minor under the age of sixteen with the use of a deadly weapon, seven counts of sexual assault of a minor under the sixteen, and five counts of sexual assault. The district court sentenced appellant to serve in the Nevada State Prison one consecutive term of life with the possibility of parole after ten years and five consecutive terms of life with the possibility of parole after twenty years. The remaining terms were imposed to run concurrently. This court affirmed the judgment of conviction in part on direct appeal, but reversed and remanded for correction of sentences for five of the counts as the minimum parole eligibility terms exceeded the

statutory maximum.<sup>1</sup> The remittitur issued on March 16, 2004. On April 27, 2004, the district court amended the judgment of conviction to reflect that the minimum parole eligibility for counts 33, 34, 35, 36 and 39 was a minimum of ten years.<sup>2</sup>

On May 1, 2007, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. The State filed a motion to dismiss the petition, and appellant filed a reply. 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 1, 2007, the district court dismissed appellant's petition. This appeal followed.

Appellant filed his petition more than three years after this court issued the remittitur from his direct appeal. 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>

In an attempt to demonstrate cause for the delay, appellant claimed that he had not been informed that his direct appeal had been decided in 2004 and that he filed his petition within a reasonable time of

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<sup>1</sup>Quattrini v. State, Docket No. 40083 (Order of Affirming in Part, Reversing in Part, and Remanding, February 18, 2004).

<sup>2</sup>Consequently, appellant was sentenced to a total of two consecutive terms of life with the possibility of parole after ten years and four consecutive terms of life with the possibility of parole after twenty years.

<sup>3</sup>See NRS 34.726(1). We note that appellant's petition was filed more than three years after entry of the amended judgment of conviction; thus, the amended judgment of conviction did not provide good cause for his late filing. See Sullivan v. State, 120 Nev. 537, 96 P.3d 761 (2004).

<sup>4</sup>See NRS 34.726(1).

learning that his direct appeal had been decided. Appellant further claimed that he did not have access to the law library or persons trained in the law at the Lovelock Correctional Center.

Based upon our review of the record on appeal, we conclude that the district court did not err in dismissing the petition. Appellant failed to demonstrate that the failure to inform him of the decision on direct appeal was an impediment external to the defense that prevented the timely filing of his petition.<sup>5</sup> Appellant's notice of direct appeal was filed in the district court on August 14, 2002, and the direct appeal was decided by written order on February 18, 2004. Even assuming that appellant had not been informed of the decision on direct appeal in February 2004, appellant failed to demonstrate that it was reasonable to wait until 2006 to begin inquiring as to the status of his direct appeal. Further, appellant's supporting documentation indicates that he knew of the direct appeal decision by May 1, 2006—the date of the letter that he sent to appellate counsel inquiring why she had not informed him of the decision on direct appeal after he had learned from this court that his direct appeal had been decided. Appellant then waited one additional year from learning of the decision to file his petition. Appellant failed to demonstrate that this delay in filing his petition was reasonable.<sup>6</sup> Further, appellant failed to demonstrate that the Lovelock Correctional Center did not provide adequate materials and resources with which to

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<sup>5</sup>See Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994).

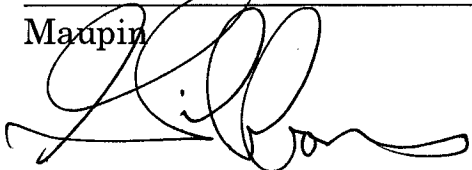
<sup>6</sup>See Hathaway v. State, 119 Nev. 248, 71 P.3d 503 (2003).

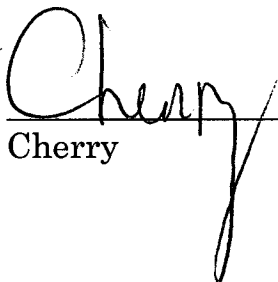
access the courts.<sup>7</sup> Notably, appellant filed his petition on a form petition and utilized several form affidavits and notices for documents filed with his petition or filed prior to his petition. Therefore, we affirm the order of the district court dismissing the petition as procedurally barred and without 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.<sup>8</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>9</sup>

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

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

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

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<sup>7</sup>Appellant failed to demonstrate that institutional procedures and policies prevented him from filing a timely petition rather than his own failure to avail himself of resources and materials.

<sup>8</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

<sup>9</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.

cc: Hon. David B. Barker, District Judge  
Daniel Joseph Quattrini  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk