

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHELMADENE YVONNE ARNOLD,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 51561

**FILED**

MAY 13 2009  
TRACIE A. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Shelmadene Yvonne Arnold's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

On July 15, 2003, the district court convicted Arnold, pursuant to a guilty plea, of attempted possession of a controlled substance, a gross misdemeanor. The district court sentenced Arnold to pay a \$2,000 fine. Arnold did not file a direct appeal.

On January 23, 2008, Arnold filed an untimely post-conviction petition for a writ of habeas corpus in the district court. See NRS 34.726(1). Arnold argued that her petition should not be dismissed as untimely, however, because the reasons for complying with the one-year time limit did not apply in her case. Specifically, she stated that the State would not be prejudiced because she did not want to withdraw her plea and proceed to trial. Rather, Arnold wished to plead to the same negotiated charge, but wanted an opportunity to have the charge dismissed if she entered and completed a drug treatment program. The State moved to dismiss the petition as untimely. On April 2, 2008, the district court found that Arnold's petition was not timely filed and denied the petition. This appeal followed.

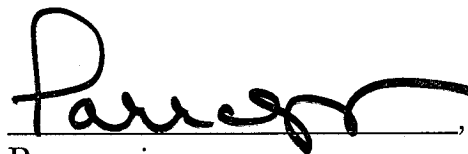
Arnold asserts that the district court abused its discretion by summarily denying her petition without granting an evidentiary hearing. We disagree.

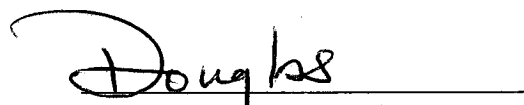
NRS 34.726(1) provides that, unless good cause is shown for the delay, a post-conviction petition that challenges the validity of the judgment or sentence must be filed within one year after entry of the judgment of conviction if no direct appeal is filed. "Application of the statutory procedural default rules to post-conviction habeas petitions is mandatory." State v. Dist. Ct. (Riker), 121 Nev. 225, 231, 112 P.3d 1070, (2005). To establish good cause, a petitioner must demonstrate that the delay was not her fault and dismissal of the petition as untimely will unduly prejudice her. NRS 34.726(1)(a),(b).

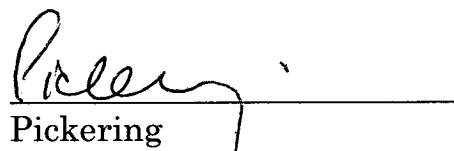
Arnold concedes that the petition was not timely filed. We conclude that the district court did not abuse its discretion by finding that Arnold failed to demonstrate good cause for the delay. Therefore, we conclude that the district court did not abuse its discretion by denying Arnold's petition as untimely without the benefit an evidentiary hearing.

Having considered Arnold's contention and concluded that it lacks merit, we

ORDER the judgment of the district court AFFIRMED.

 J.  
Parraguirre

 J.  
Douglas

 J.  
Pickering

cc: Hon. Douglas W. Herndon, District Judge  
Mueller Hinds & Associates  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk