

IN THE SUPREME COURT OF THE STATE OF NEVADA

RANDALL GEORGE ANGEL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52264

FILED

MAR 26 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY: *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

On March 10, 2000, the district court convicted appellant, pursuant to a guilty plea, of one count of burglary. The district court sentenced appellant to serve a term of 36 to 96 months in the Nevada State Prison. Appellant voluntarily withdrew his direct appeal. Angel v. State, Docket No. 35941 (Order Dismissing Appeal, June 12, 2000).

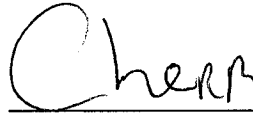
On July 30, 2008, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. Pursuant to NRS 34.750 and 34.770, the district court declined to appoint counsel to represent appellant or to conduct an evidentiary hearing. On August 5, 2008, the district court denied appellant's petition. This appeal followed.


We conclude that the district court did not err in denying the petition. This court has held that a defendant who has completed his sentence may not seek habeas corpus relief from that conviction even if that conviction has been used to enhance a sentence that the defendant is presently serving. Jackson v. State, 115 Nev. 21, 973 P.2d 241 (1999); see also Nev. Const. art. 6, § 6(1) (providing that the district courts may issue a writ of habeas corpus on petition by "any person who is held in actual custody in their respective districts, or who has suffered a criminal conviction in their respective districts and has not completed the sentence imposed pursuant to the judgment of conviction"). Appellant was not in custody for the judgment imposed in the instant case at the time he filed the petition. Further, appellant's petition was procedurally barred as it was filed eight years after entry of the judgment of conviction and voluntary dismissal of his direct appeal, and appellant failed to demonstrate good cause to excuse the delay in filing. See NRS 34.726(1) (providing that a post-conviction petition for a writ of habeas corpus must be filed within one year after entry of the judgment of conviction unless there is good cause shown for the delay); Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994) (holding that good cause must be an impediment external to the defense). Therefore, we affirm the order of the district court denying appellant's petition.


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

ORDER the judgment of the district court AFFIRMED.¹


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Brent T. Adams, District Judge
Randall George Angel
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk

¹We 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.