

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES DAVID FLANSBURG,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 53888

**FILED**

**JAN 07 2010**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
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. Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

Appellant's petition, filed on February 3, 2009, was untimely because it was filed more than one year after entry of the judgment of conviction on July 19, 2007. See NRS 34.726(1). Appellant's petition was procedurally barred absent a demonstration of cause for the delay and prejudice. See id.

In an attempt to demonstrate cause for the delay, appellant argued he only had limited access to the law library while in prison and he did not understand that he could file a petition for a writ of habeas corpus. Appellant failed to demonstrate good cause because he failed to demonstrate an impediment external to the defense. See Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (an impediment external to the defense may be demonstrated by showing "that the factual or legal basis for a claim was not reasonably available to counsel, or that some interference by officials made compliance impracticable.") (quotation marks omitted); Lozada v. State, 110 Nev. 349, 353, 871 P.2d 944, 946 (1994).

Appellant also claimed he had good cause because he did not understand that he could have appealed his conviction and that trial counsel failed to consult with him regarding an appeal. Appellant failed to demonstrate good cause because appellant could have raised this claim in a timely petition. Further, appellant failed to demonstrate how counsel's failure to assist appellant regarding an appeal provided good cause. See Hathaway, 119 Nev. at 254, 71 P.3d at 507. Therefore, we conclude the district court did not err in denying the petition as procedurally time barred.

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.

Hardesty, J.  
Hardesty

Douglas, J.  
Douglas

Pickering, J.  
Pickering

cc: Hon. Valorie Vega, District Judge  
James David Flansburg  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk