

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID SPRINGFIELD,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 54343

**FILED**

FEB 04 2010

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
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.<sup>1</sup> Eighth Judicial District Court, Clark County; James M. Bixler, Judge.

Appellant filed his petition on July 9, 2009, approximately 24 years after this court issued the remittitur in the direct appeal on August 27, 1985.<sup>2</sup> Thus, appellant's petition was untimely filed. See NRS 34.726(1). Appellant's petition was procedurally barred absent a demonstration of cause for the delay and prejudice. See *id.*

Appellant's good cause argument that he could not read and write did not provide cause for the delay as a petitioner's limited intelligence and lack of adequate legal assistance are legally insufficient


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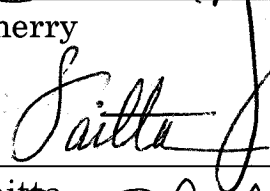
<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See *Lockett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).


<sup>2</sup>The petition was also filed more than 16 years after the effective date of NRS 34.726(1).

reasons to overcome the procedural defect. Phelps v. Director, Prisons, 104 Nev. 656, 764 P.2d 1303 (1988). The claims raised in the petition were reasonably available to be raised in a timely petition. Hathaway v. State, 119 Nev. 248, 71 P.3d 503 (2003). Therefore, we conclude that the district court did not err in denying the petition as procedurally time barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>3</sup>

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

  
\_\_\_\_\_, J.  
Saitta

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

cc: Hon. James M. Bixler, District Judge  
David Springfield  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>3</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.