

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRIAN KAMEDULA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54478

FILED

MAR 10 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Ingold*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's "First Amendment Petition" for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Appellant filed his petition on July 16, 2009, approximately twenty-two years after entry of the judgment of conviction and sentence on August 4, 1987. Thus, appellant's petition was untimely filed.² See NRS 34.726(1). Appellant's petition was procedurally barred absent a

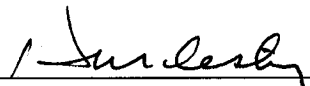
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975). Appellant's petition is properly construed as a post-conviction petition for a writ of habeas corpus pursuant to NRS 34.724(2)(b).

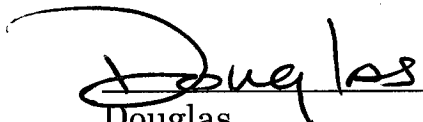
²Even assuming that the deadline for filing a habeas corpus petition commenced on January 1, 1993, the date of the amendments to NRS chapter 34, appellant's petition was filed more than 16 years after the effective date of NRS 34.726. See 1991 Nev. Stat., ch. 44, § 5, at 75-76; Pellegrini v. State, 117 Nev. 860, 874-75, 34 P.3d 519, 529 (2001).


demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(1)(b); NRS 34.810(3).

Appellant failed to demonstrate that any impediment external to the defense prevented him from filing his claims within the time limits of NRS 34.726(1). Hathaway v. State, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). Appellant's attempt to overcome his procedural defects by characterizing his petition as a "First Amendment Petition" lacked merit, as appellant failed to allege any unconstitutional prior restraint of his First Amendment rights. See NRS 34.185. Further, to the extent appellant raised claims related to any potential conditions imposed during lifetime supervision, these claims were speculative and premature, as appellant has not been granted parole, and any conditions of his possible release are not yet determined. See Palmer v. State, 118 Nev. 823, 827, 59 P.3d 1192, 1194-95 (2002) (noting that the particular conditions of lifetime supervision are tailored to each individual case and are not determined until after a hearing conducted just prior to the expiration of the sex offender's completion of a term of parole or probation or release from custody); see also NRS 213.1243; NRS 213.095. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Michelle Leavitt, District Judge
Brian Kamedula
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk