

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER R. BREWER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54917

CHRISTOPHER R. BREWER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55045 ✓

FILED

JUN 10 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

These are appeals from an order of the district court denying a post-conviction petition for a writ of habeas corpus and an order denying a motion to withdraw guilty plea. Eighth Judicial District Court, Clark County; Jackie Glass, Judge. We elect to consolidate these appeals for disposition.¹ See NRAP 3(b).

Docket No. 54917

Appellant filed his petition on August 26, 2009, more than one year after the judgment of conviction was entered on January 31, 2008.

¹These appeals have 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 Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

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 undue prejudice. See id.

To excuse the procedural bars, appellant claimed he gave legal documents to a fellow inmate so the inmate could help him file a petition, and when that inmate was sent to segregation, the legal documents were confiscated by the prison. That the fellow inmate was sent to segregation and the documents were confiscated did not demonstrate an impediment external to the defense that demonstrated good cause. Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). As appellant asserted that he had the documents in his possession on March 24, 2008, any claim arising from the documents was reasonably available to be raised in a timely petition. Id. To the extent that appellant challenged the conditions of confinement, a post-conviction petition for a writ of habeas corpus is not the proper vehicle to raise such challenges. Bowen v. Warden, 100 Nev. 489, 686 P.2d 250 (1984). Therefore, the district court did not err in denying the petition.²

Docket No. 55045

In a motion filed on October 23, 2009, appellant claimed: (1) he was coerced into entering a guilty plea and (2) his trial counsel failed to file a direct appeal. The equitable doctrine of laches precluded consideration of the motion because there was a more than one-year delay from entry of the judgment of conviction on January 31, 2008, and an "implied waiver" existed from appellant's "knowing acquiescence in

²In addition, the district court did not abuse its discretion in denying appellant's motion to amend the petition.

existing conditions.” Hart v. State, 116 Nev. 558, 563-64, 1 P.3d 969, 972 (2000). Moreover, claim (2) fell outside the scope of claims permissible in a motion to withdraw a guilty plea. Id. at 564, 1 P.3d at 972 (“Only issues relating to the validity of the plea are pertinent to [a] motion [to withdraw the plea].”). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Hon. Jackie Glass, District Judge
Christopher R. Brewer
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk