

IN THE SUPREME COURT OF THE STATE OF NEVADA

BYRON ELROY CRUTCHER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55266

FILED

MAY 07 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY: *Angersau*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from the denial of appellant's post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; David B. Barker, Judge.

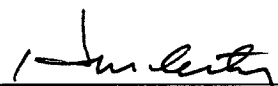
Appellant filed his petition on October 20, 2009, more than four years after the remittitur issued from his appeal on September 20, 2005. Crutcher v. State, Docket No. 42355 (Order of Affirmance, September 20, 2005). Thus, appellant's petition was untimely filed. See NRS 34.726(1). Moreover, appellant's petition was successive because he had previously pursued post-conviction relief.² See NRS 34.810(2). Appellant's petition was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(3).

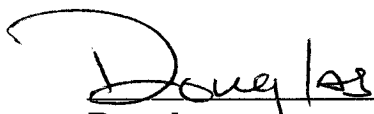
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).


²Crutcher v. State, Docket No. 46767 (Order of Affirmance, September 13, 2006).

Appellant claimed that he had good cause to litigate the October 2009 petition because he needed to exhaust state remedies to pursue federal relief. Filing a petition for purposes of exhausting state remedies is not good cause. Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (recognizing that good cause must be an impediment external to the defense and that all claims available to raise in a timely petition must be raised in a timely fashion). Therefore, the district court did not err in denying the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. David B. Barker, District Judge
Byron Elroy Crutcher
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk