IN THE SUPREME COURT OF THE STATE OF NEVADA

BRYAN K. ROBINSON,
Appellant,
   vs.
THE STATE OF NEVADA,
Respondent.

No. 55475

FILED

MAR 07 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY_____
      DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an 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; Elissa F. Cadish, Judge.

Appellant argues that the district court erred in denying his petition as procedurally barred. Appellant filed his petition on March 15, 2005, nearly four years after this court's April 30, 2001, issuance of the remittitur from his direct appeal. See Robinson v. State, Docket No. 34933 (Order of Affirmance, April 2, 2001). Appellant's petition was therefore untimely filed and, accordingly, was procedurally barred absent a demonstration of cause for the delay and undue prejudice. See NRS 34.726(1).
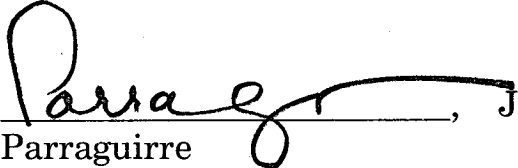
Appellant argues that trial counsel's failure to timely deliver his case files constituted good cause to excuse his procedural defect. Appellant's argument does not explain how counsel's failure to send him his files prevented him from filing a timely petition. Hood v. State, 111 Nev. 335, 338, 890 P.2d 797, 798 (1995). Notably, appellant's appendix does not include his proper person petition containing claims that would have required possession of his files to raise. See NRAP 30(2)(A), (3).

Further, appellant provided no evidence that he sought to obtain his files within a reasonable period of time, that is, the one-year time frame imposed by NRS 34.726(1), and thus failed to demonstrate cause to excuse the entire length of the delay. See Hathaway v. State, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). Accordingly we,

ORDER the judgment of the district court AFFIRMED.

_____, J.
Douglas

_____, J.
Gibbons

_____, J.
Parraguirre

cc: Hon. Elissa F. Cadish, District Judge
        Christopher R. Oram
        Attorney General/Carson City
        Clark County District Attorney
        Eighth District Court Clerk