

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT CHARLES JONES,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55603

FILED

SEP 29 2010

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a “general provisions petition for a writ of habeas corpus.”¹ Eighth Judicial District Court, Clark County; Stefany Miley, Judge.

Appellant filed his petition on December 9, 2008, more than 20 years after the filing of the judgment of conviction on April 10, 1987.²

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

As appellant requested relief from his sentence, this would be properly construed as a post-conviction petition for writ of habeas corpus. See NRS 34.720; NRS 34.724(2)(b).

²No direct appeal was taken from the 1987 judgment of conviction. Appellant’s petition was also filed more than 17 years after the effective date of NRS 34.726.


Appellant's petition was therefore untimely filed. See NRS 34.726(1). It was also an abuse of the writ as the claim could have been raised in prior post-conviction petitions filed in 1988 and 2000.³ NRS 34.810(2). Thus, appellant's petition was procedurally barred absent a demonstration of good cause and prejudice. See NRS 34.726(1); NRS 34.810(3).

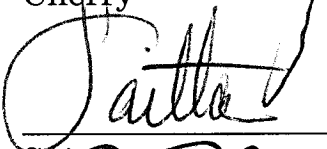
Appellant failed to demonstrate an impediment external to the defense excused his procedural defects as his claim was reasonably available to be raised in a timely petition. See Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). We note that appellant and his counsel were both present at the hearing at which appellant agreed to a sentence of life without the possibility of parole in order to avoid the death penalty. Further, the record reflects that a judgment of conviction, properly signed by a judge and sentencing appellant to a term of life in prison without the possibility of parole, was filed on April 10, 1987. Therefore, the district court did not err in denying the petition as


³Jones v. State, Docket Nos. 37388 & 37448 (Order of Affirmance, November 21, 2001). No appeal was taken from the denial of the 1988 petition.

procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁴


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Stefany Miley, District Judge
The Eighth District Court Clerk
Robert Charles Jones
Attorney General/Carson City
Clark County District Attorney

⁴We 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.