

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAY LORIN SAMORA,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55690

FILED

NOV 08 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 dismissing a post-conviction petition for a writ of habeas corpus.¹ Eighth Judicial District Court, Clark County; Valorie Vega, Judge.

Appellant filed his petition on November 5, 2009, more than two years after entry of the judgment of conviction on June 8, 2007.² 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.

First, appellant claimed that he had good cause to excuse the delay because he is mentally challenged. Appellant's alleged mental challenges did not demonstrate cause to overcome the procedural bar. See Phelps v. Director, Prisons, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988)

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).

²No direct appeal was taken.

(holding that limited intelligence and lack of trained legal assistance did not constitute good cause for filing a procedurally barred petition).

Second, appellant claimed he had good cause to excuse the delay because his trial counsel did not explain his right to a direct appeal. Counsel's alleged failure to discuss appellant's right to a direct appeal did not provide an impediment external to the defense in the instant case which excused the more than two-year delay in filing a post-conviction petition for a writ of habeas corpus. See Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003).³ Therefore, the district court did not err in dismissing the petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

cc: Hon. Valorie Vega, District Judge
Jay Lorin Samora
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

³Notably, appellant was informed of his limited right to appeal in the guilty plea agreement. Davis v. State, 115 Nev. 17, 19, 974 P.2d 658, 659 (1999).