

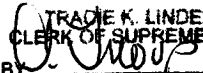
IN THE SUPREME COURT OF THE STATE OF NEVADA

TERRANCE L. OLIVER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 55724

FILED

NOV 08 2010

TRADE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's "First Amendment Petition Writ of Certiorari."¹ Eighth Judicial District Court, Clark County; David B. Barker, Judge.

Appellant filed his petition on November 9, 2009, almost two years after entry of the judgment of conviction on November 17, 2007.² Thus, appellant's petition was untimely filed. See NRS 34.726(1). Moreover, appellant's petition was successive because he had previously filed a post-conviction petition for a writ of habeas corpus, and it constituted an abuse of the writ as he raised claims new and different

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).

²Because appellant's sentence challenged the validity of his judgment of conviction and sentence, we conclude that the district court properly construed his petition as a post-conviction petition for a writ of habeas corpus. See NRS 34.720; NRS 34.724(2)(b).

from those raised in his previous petition.³ 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).

Appellant claimed that he had good cause for the failure to raise his claims regarding lifetime supervision in a timely manner because the district court did not add the special sentence of lifetime supervision until it entered an amended judgment of conviction on September 10, 2009. Even if entry of the amended judgment of conviction provided good cause for appellant's failure to raise these claims, appellant failed to demonstrate prejudice. The guilty plea agreement, signed by appellant, apprised appellant that the sentence of lifetime supervision would be imposed and appellant acknowledged to the district court at the plea canvass that he understood that he would be sentenced to lifetime supervision. Without the condition of lifetime supervision, appellant's sentence was facially illegal, see NRS 176.0931; NRS 179D.097, and addition of the sentence of lifetime supervision was necessary to bring appellant's sentence into compliance with NRS 176.0931. See NRS 176.555; Miranda v. State, 114 Nev. 385, 386-87, 956 P.2d 1377, 1378 (1998) (noting the district court's authority to correct facially illegal sentences). Accordingly, appellant failed to demonstrate prejudice, and the district court did not err in dismissing these claims as procedurally barred.

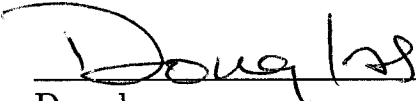
With respect to the remaining claims in appellant's petition, appellant failed to demonstrate any impediment external to the defense


³See Oliver v. State, Docket No. 52121 (Order of Affirmance, February 4, 2009).

prevented him from raising these claims in accordance with the time limitations of NRS 34.726(1). See Hathaway v. State, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). Therefore, the district court did not err in denying the remainder of appellant's 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
Eighth Judicial District Clerk
Terrance L. Oliver
Attorney General/Carson City
Clark County District Attorney