

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUVENTINO PANIAGUA,  
Appellant,  
vs.  
WARDEN, NEVADA STATE PRISON,  
GREGORY SMITH AND THE STATE  
OF NEVADA,  
Respondents.

No. 55782

**FILED**

SEP 10 2010

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY J. J. J.  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying post-conviction petitions for a writ of habeas corpus.<sup>1</sup> Sixth Judicial District Court, Humboldt County; Richard Wagner, Judge.

The district court resolved the petitions on the merits. However, our review of the record on appeal reveals that the petitions were procedurally barred. Appellant filed petitions on November 20, 2009 (district court case CR07-5421), and on December 9, 2009 (CR07-5365), almost two years after entry of the judgments of conviction on January 30, 2008.<sup>2</sup> Thus, appellant's petitions were untimely filed. See NRS

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<sup>1</sup>This 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).

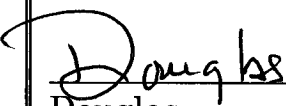
<sup>2</sup>The petitions were nearly identical, although they involved two separate district court cases. No direct appeal was taken from either judgment of conviction.


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34.726(1). Appellant's petitions were procedurally barred absent a demonstration of cause for the delay and undue prejudice. See id. Appellant did not attempt to demonstrate cause for the delay. Under these circumstances, we conclude that the district court erroneously reached the merits. State v. Dist. Ct. (Riker), 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005) ("Application of the statutory procedural default rules to post-conviction habeas petitions is mandatory."). Nevertheless, we affirm the decision to deny the petitions because the petitions were procedurally time barred. Kramer v. Kramer, 96 Nev. 759, 762-63, 616 P.2d 395, 397-98 (1980) (holding that a correct result will not be reversed simply because it is based on the wrong reason). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Pickering

cc: Hon. Richard Wagner, District Judge  
Juventino Paniagua  
Attorney General/Carson City  
Humboldt County District Attorney  
Humboldt County Clerk

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Despite his reference to the First Amendment in the title of the petitions, NRS 34.185 was not implicated in the instant case. The procedural rules applicable to a post-conviction petition for a writ of habeas corpus applied. NRS 34.720.