

IN THE SUPREME COURT OF THE STATE OF NEVADA

HOUSTON POWELL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 55872

**FILED**

SEP 09 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 post-conviction petition for a writ of habeas corpus.<sup>1</sup> Eighth Judicial District Court, Clark County; Kathy A. Hardcastle, Judge.

Appellant filed his petition on December 2, 2009, more than one year after the district court entered the judgment of conviction and sentence on February 1, 2008. Thus, appellant's petition was untimely filed.<sup>2</sup> See NRS 34.726(1). Appellant's petition was successive because it raised several claims that had been previously litigated, and the petition was also an abuse of the writ to the extent he raised claims that were new and different from those raised in his prior petition.<sup>3</sup> See NRS 34.810(2).

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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>No direct appeal was taken.

<sup>3</sup>Powell v. State, Docket No. 53103 (Order of Affirmance, August 10, 2009).

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 any impediment external to the defense prevented him from raising his claims challenging his judgment of conviction within the time limits. Hathaway v. State, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). Appellant's claim of ineffective assistance of counsel was not sufficient to establish good cause. Id. This court's decision in Griffin v. State, 122 Nev. 737, 137 P.3d 1165 (2006), would not provide good cause in the instant case because any claim based on Griffin was reasonably available during the time limit set forth in NRS 34.726. Appellant's attempt to overcome his procedural defects by characterizing his petition as a "First Amendment Petition" lacked merit, as appellant failed to demonstrate any unconstitutional prior restraint of his First Amendment rights. See NRS 34.185. Finally, appellant's claims did not implicate the jurisdiction of the courts, and thus, did not provide good cause in the instant case. Nev. Const. art. 6, § 6; NRS 171.010. Therefore, the district court did not err in denying the petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Hardesty, J.  
Hardesty

Douglas, J.  
Douglas

Pickering, J.  
Pickering

cc: Hon. Kathy A. Hardcastle, District Judge  
Houston Powell  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk