

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD DEEDS,
Appellant,
vs.
WARDEN, NORTHERN NEVADA
CORRECTIONAL CENTER, JIM
BENEDETTI,
Respondent.

No. 56041

FILED

OCT 22 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.¹ Eighth Judicial District Court, Clark County; Jackie Glass, Judge.²

Appellant filed his petition on January 28, 2010, almost 29 years after issuance of the remittitur on direct appeal on April 29, 1981. Thus, appellant's petition was untimely filed, and was procedurally barred absent a demonstration of cause for the delay and undue prejudice. See NRS 34.726(1). Moreover, because the State specifically pleaded laches,

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).

²Although appellant initially filed his petition in the First Judicial District, because portions of appellant's petition challenged the validity of his judgment of conviction and sentence, the First Judicial District properly transferred the petition to the Eighth Judicial District. See NRS 34.738(3).

appellant was required to overcome the presumption of prejudice to the State. NRS 34.800(2).

Appellant failed to demonstrate any impediment external to the defense that prevented him from raising his 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). Further, appellant failed to overcome the presumption of prejudice to the State pursuant to NRS 34.800(2). Therefore, the district court did not err in denying appellant's petition as procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.³

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Hon. Jackie Glass, District Judge
Richard Deeds
Clark County District Attorney
Eighth District Court Clerk

³We further conclude that the district court did not err in dismissing the remainder of appellant's claims without prejudice, pursuant to NRS 34.738(3).