

IN THE SUPREME COURT OF THE STATE OF NEVADA

JEREMY A. CROZIER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 56098

**FILED**

**MAY 09 2011**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY Angerson  
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; Donald M. Mosley, Judge.

Appellant filed his petition on March 10, 2010, more than four years after entry of the judgment of conviction on September 15, 2005. Thus, appellant's petition was untimely filed. NRS 34.726(1). Appellant's petition was procedurally barred absent a demonstration of cause for the delay and undue prejudice. Id.

Appellant argued that the delay was not his fault because his trial counsel refused to file any appeals, motions for sentence modification, or post-conviction petitions on his behalf. We conclude that the district court did not err in determining that this explanation did not provide good cause. NRS 34.726(1)(a) does not require that the petitioner himself must

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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).

act or fail to act to cause the delay. Rather, this court has defined NRS 34.726(1) as requiring “a petitioner [to] show that an impediment external to the defense prevented him or her from complying with the state procedural default rules.” Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). NRS 34.726(1)(a) contemplates that the delay in filing a petition must be caused by a circumstance not within the control of the defense team as a whole, not solely the petitioner. Appellant failed to provide any facts demonstrating that counsel’s failure to file any of the aforementioned documents provided good cause in the instant case. Id. at 252-55, 71 P.3d at 506-08.

Second, appellant argued that his delay was excused because he had no access to the law library. Appellant failed to demonstrate that some kind of official interference affected his ability to file a timely petition as he failed to demonstrate that the prison’s procedures were not sufficient to provide access to legal materials or inmate law clerks. Id. at 252, 71 P.3d at 506. The lack of personal, physical access to the law library would not be a legally recognized excuse where the prison has provided other means of accessing legal resources. Id. Appellant failed to articulate how or when he did receive access to legal resources and why he could not have achieved this access earlier. Appellant further failed to demonstrate that the prison did not have procedures in place to provide access to legal resources for segregated persons.

Third, appellant argued that the procedural bars would not apply because he did not waive the right to make constitutional challenges and because his plea bargain was allegedly breached. “Application of the statutory procedural default rules to post-conviction habeas petitions is mandatory.” State v. Dist. Ct. (Riker), 121 Nev. 225, 231, 112 P.3d 1070,

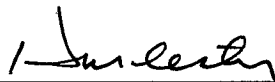
1074 (2005). NRS chapter 34 does not provide any exception for the timely filing of a post-conviction petition for a writ of habeas corpus because the claims involved constitutional challenges or an alleged breach of the plea agreement.

Because appellant failed to demonstrate good cause to excuse his procedurally time-barred petition, we

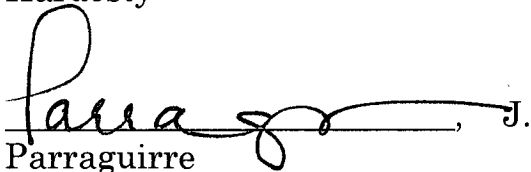
ORDER the judgment of the district court AFFIRMED.<sup>2</sup>



\_\_\_\_\_, J.  
Saitta



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



\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Donald M. Mosley, District Judge  
Jeremy A. Crozier  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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<sup>2</sup>We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present new claims, facts or good cause arguments in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance as they should be litigated in the district court in the first instance.