

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALLEN PRICE WADE,

No. 35113

Appellant,

**FILED**

vs.

MAR 01 2000

THE STATE OF NEVADA,

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richard*  
CHIEF DEPUTY CLERK

Respondent.

ORDER DISMISSING APPEAL

This is an appeal from an order of the district court dismissing appellant's post-conviction petition for a writ of habeas corpus. On July 14, 1988, appellant was convicted of one count of sexual assault with a deadly weapon and was sentenced to two consecutive fifteen-year prison terms. Almost ten years later, on March 30, 1998, appellant filed a notice of appeal. We dismissed the appeal for lack of jurisdiction because the appeal was untimely. *Wade v. State*, Docket No. 32078 (Order Dismissing Appeal, April 20, 1998).

On November 4, 1998, appellant filed a post-conviction petition for a writ of habeas corpus alleging ineffective assistance of counsel. Specifically, appellant alleged his counsel failed to inform him of his right to appeal his conviction. On motion from the State, the district court dismissed appellant's petition pursuant to NRS 34.726(1).<sup>1</sup> This appeal followed.

In contending that the district court erred, appellant relies on our holding in *Lozada v. State*, 110 Nev. 349, 871 P.2d 944 (1994). Appellant argues that Lozada obligates the district court to grant his post-conviction petition for a writ of habeas corpus. We disagree.

We recently held "an allegation that trial counsel was ineffective in failing to inform a claimant of the right to appeal from the judgment of conviction, or any other allegation that a claimant was deprived of a direct appeal without his or

<sup>1</sup>A post-conviction petition for a writ of habeas corpus must be filed within one year after issuance of the remittitur on direct appeal, absent a showing of good cause.

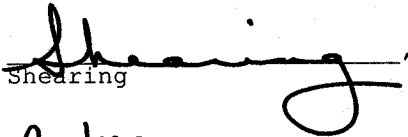
her consent, does not constitute good cause to excuse the untimely filing of a petition pursuant to NRS 34.726." Harris v. Warden, 114 Nev. 799, 964 P.2d 785, 787 (1998); see also Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998) (the one-year period for filing a timely petition "begins to run from the issuance of the remittitur from a timely direct appeal to this court from the judgment of conviction"). In order to establish good cause pursuant to NRS 34.726, a petitioner must demonstrate some other external cause for delay in the filing of his or her petition for a post-conviction writ of habeas corpus. See id.; Crump v. Warden, 113 Nev. 293, 934 P.2d 247 (1997).


Appellant has failed to demonstrate good cause for the almost ten-year delay in filing his petition. Therefore, the district court properly dismissed appellant's petition.

Having considered appellant's contention and concluded that it is without merit, we

ORDER this appeal dismissed.

  
Maupin J.

  
Shearing J.

  
Becker J.

cc: Hon. Connie J. Steinheimer, District Judge  
Attorney General  
Washoe County District Attorney  
Karla K. Butko  
Marc P. Picker  
Washoe County Clerk