

IN THE SUPREME COURT OF THE STATE OF NEVADA

JEREMY MICHAEL CAULEY,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56258

FILED

MAR 18 2011

TRACE E. LINDEMAN
CLERK OF SUPREME COURT
BY [Signature]
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; Michael Villani, Judge.

Appellant filed his petition on January 25, 2010, more than four years after entry of the judgment of conviction on September 19, 2005.² Thus, appellant's petition was untimely filed. See NRS 34.726(1). Moreover, appellant's petition constituted an abuse of the writ as he raised claims new and different from those raised in his previous

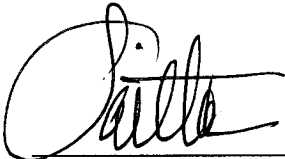
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

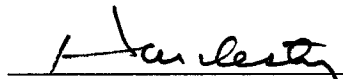
²Appellant's direct appeal was dismissed for lack of jurisdiction because the notice of appeal was untimely filed. Cauley v. State, Docket No. 49117 (Order Dismissing Appeal, May 9, 2007). Thus, the proper date to measure timeliness is the entry of the judgment of conviction. Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998).

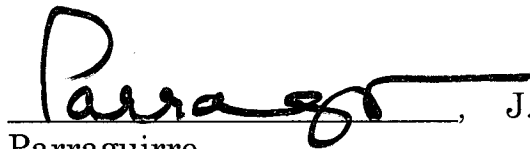
petitions.³ See NRS 34.810(2). Appellant's petition was procedurally barred absent a demonstration of good cause and actual prejudice. See NRS 34.726(1); NRS 34.810(3).

To overcome the procedural bars, appellant claimed he was not properly informed on how to file a direct appeal. Appellant failed to demonstrate good cause as he did not allege that he had asked trial counsel to file an appeal and he failed to file this petition within a reasonable time after learning that no direct appeal had been filed. Hathaway v. State, 119 Nev. 248, 254-55, 71 P.3d 503, 507-08 (2003). Notably, appellant raised this claim in all three of his previous petitions, and thus, this claim cannot excuse the entire delay in filing the instant petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

³Appellant did not appeal the denials of the post-conviction petitions for a writ of habeas corpus he filed in the district court on January 17, 2007, March 20, 2007, and December 19, 2008.

cc: Hon. Michael Villani, District Judge
Jeremy Michael Cauley
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk