

IN THE SUPREME COURT OF THE STATE OF NEVADA

KYLE W. STAATS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56562

FILED

APR 06 2011

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; James M. Bixler, Judge.

In his petition filed on July 7, 2009, appellant appeared to claim that he received ineffective assistance of trial counsel and ineffective assistance of counsel at the probation revocation proceedings. Appellant further appeared to challenge the revocation of probation. Based upon our review of the record on appeal, we conclude that the district court did not err in denying the petition for the reasons discussed below.


To the extent that appellant's claims challenged entry of the plea or the sentencing proceedings, appellant's petition was untimely filed as it was filed more than one year after entry of the judgment of conviction

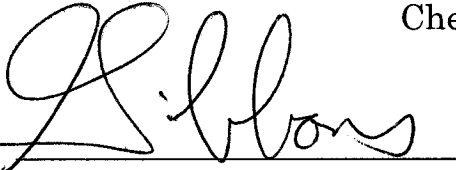
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).


on February 28, 2008. NRS 34.726(1). Appellant failed to demonstrate that he had cause to excuse his delay in raising claims relating to the judgment of conviction and sentence. Id.; Hathaway v. State, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003).

To the extent that appellant raised claims challenging the effective assistance of counsel at the probation revocation proceedings and the revocation of probation, appellant failed to demonstrate that he received ineffective assistance of counsel at the probation revocation proceedings or that the district court abused its discretion in revoking probation. Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Warden v. Lyons, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984) (adopting test set forth in Strickland); see also Gagnon v. Scarpelli, 411 U.S. 778, 790 (1973); Fairchild v. Warden, 89 Nev. 524, 525, 516 P.2d 106, 107 (1973) (adopting the approach set forth in Gagnon); Lewis v. State, 90 Nev. 436, 438, 529 P.2d 796, 797 (1974). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Gibbons


_____, J.
Pickering

cc: Hon. James M. Bixler, District Judge
Kyle W. Staats
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk