

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIE RAY LEWIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56652

FILED

MAR 17 2011

TRACIA K. LINDEMAN
CLERK OF SUPREME COURT
BY *T. Lindeman*
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; Michelle Leavitt, Judge.

Appellant filed his petition on June 29, 2010, three years after this court's May 4, 2007, issuance of the remittitur from his direct appeal. See Lewis v. State, Docket No. 47630 (Order Affirming in Part, Reversing in Part and Remanding, August 7, 2007). Thus, appellant's petition was untimely filed. See NRS 34.726(1). Appellant's petition was also successive because he had previously filed a post-conviction petition for a writ of habeas corpus, and it constituted an abuse of the writ as he raised claims new and different from those raised in his previous petition.² NRS

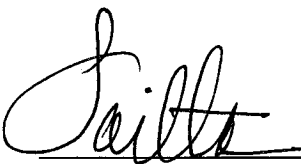
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

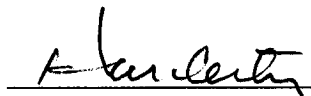
²Lewis v. State, Docket No. 50872, Order Affirming in Part, Reversing in Part and Remanding, June 18, 2009); Lewis v. State, Docket No. 55305 (Order of Affirmance, June 9, 2010).


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

Appellant argued that he had good cause to excuse the procedural bars because he did not receive his trial transcripts from counsel until January 2009. Appellant's argument did not excuse the entire length of the delay. See Hathaway v. State, 119 Nev. 248, 252-53, 71 P.3d 503, 506 (2003). Further, this court has held that failure of counsel to send a petitioner his case file does not demonstrate cause to excuse the delay. Hood v. State, 111 Nev. 335, 338, 890 P.2d 797, 798 (1995). Moreover, in light of his prior petition raising many of the same claims, appellant did not explain how the transcripts were necessary to make a full and complete challenge to his conviction. Finally, to the extent that appellant argued that his ignorance of the law and legal procedures constitute good cause, he was mistaken. Phelps v. Director, Prisons, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 _____, J.
Saitta

 _____, J.
Hardesty

 _____, J.
Parraguirre

cc: Hon. Michelle Leavitt, District Judge
Willie Ray Lewis
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk