

IN THE SUPREME COURT OF THE STATE OF NEVADA

MATTHEW CORZINE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 57408

FILED

MAY 09 2011

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *A. Ingersoll*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus.<sup>1</sup> Eighth Judicial District Court, Clark County; Jennifer Togliatti, Judge.<sup>2</sup>

Appellant filed his petition on July 27, 2010, more than three years after the judgment of conviction was filed on February 5, 2007.<sup>3</sup> Appellant's petition was therefore untimely filed and, accordingly, was

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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).


<sup>2</sup>Judge Joseph T. Bonaventure presided over the hearing on the petition and orally denied it.

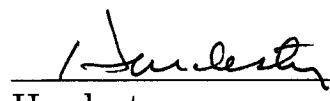
<sup>3</sup>No direct appeal was taken. An amended judgment of conviction was filed on August 2, 2007, but appellant's claim did not implicate the change therein. See Sullivan v. State, 120 Nev. 537, 541, 96 P.3d 761, 764 (2004).

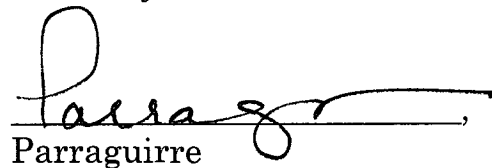
procedurally barred absent a demonstration of cause for the delay and undue prejudice. NRS 34.726(1).

Appellant argued that he had good cause to excuse the procedural defect because he believed that counsel was pursuing a direct appeal. A reasonable belief that counsel is pursuing an appeal may establish good cause, but only where the post-conviction habeas petition is filed within a reasonable time after petitioner learns that the appeal was not filed. Hathaway v. State, 119 Nev. 248, 254-55, 71 P.3d 503, 507-08 (2003). The record on appeal demonstrates that while petitioner had been aware since at least September 2007 that counsel had not filed a notice of appeal, he nevertheless waited nearly three years after that to file his petition. Appellant's petition was therefore not filed within a reasonable time of learning that an appeal had not been filed. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

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

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

cc: Hon. Jennifer Togliatti, District Judge  
Matthew Corzine  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk