

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID LEE TURNER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 57692

**FILED**

**JUN 08 2011**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Youney  
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.<sup>1</sup> Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

Appellant filed his petition on September 7, 2010, almost two years after entry of the judgment of conviction on November 19, 2008.<sup>2</sup> Thus, appellant's petition was untimely filed. NRS 34.726(1). Appellant's petition was procedurally barred absent a demonstration of cause for the delay and undue prejudice. Id.

Appellant first argued that his delay was excused because he started seeking withdrawal of counsel in August 2009, and appellant 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 Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).


<sup>2</sup>Appellant filed an untimely notice of appeal from his conviction, and the appeal was dismissed by this court for lack of jurisdiction. Turner v. State, Docket No. 54841 (Order Dismissing Appeal, November 24, 2009). The one-year time period for filing a timely post-conviction petition for a writ of habeas corpus commenced upon entry of the judgment of conviction. Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133 (1998).


not an attorney and unknowledgeable in the law. NRS 34.726 does not provide for a tolling period during the period before counsel formally withdraws from representation. Appellant's lack of legal training and knowledge does not amount to an impediment external to the defense. Phelps v. Director, Prisons, 104 Nev. 656, 660, 764 P.2d 1303, 1306 (1988).

Next, appellant appeared to argue that he had cause for his delay because his trial counsel failed to advise him of the right to appeal, and, consequently, trial counsel failed to file an appeal on his behalf. Appellant failed to demonstrate cause for the delay as he did not allege that he asked trial counsel to file an appeal and that trial counsel refused to do so or that he believed trial counsel had filed an appeal on his behalf. Hathaway v. State, 119 Nev. 248, 255, 71 P.3d 503, 508 (2003). Accordingly, we conclude that the district court did not err in denying the petition as procedurally barred, and we

ORDER the judgment of the district court AFFIRMED.<sup>3</sup>

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Pickering

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<sup>3</sup>We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.

cc: Hon. Valerie Adair, District Judge  
David Lee Turner  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk