

IN THE SUPREME COURT OF THE STATE OF NEVADA

CALVIN KIRKLAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57836

FILED

JUL 15 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *H. Ingead*
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; Doug Smith, Judge.

Appellant filed his petition on October 25, 2010, over one year after entry of the judgment of conviction on June 22, 2009.² Thus, appellant's petition was untimely filed. See NRS 34.726(1). Appellant's petition was procedurally barred absent a demonstration of cause for the delay and undue prejudice. See NRS 34.726(1).


In an attempt to demonstrate cause for the delay, appellant claimed that trial counsel failed to file an appeal and would not return messages. Appellant failed to demonstrate that he believed that trial counsel was pursuing an appeal on his behalf, that his belief was

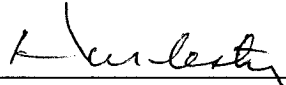
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

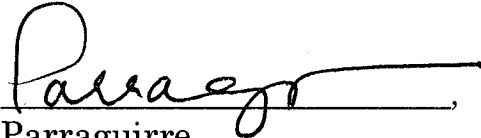
²No direct appeal was taken.

reasonable, and that he filed the petition within a reasonable time after he should have known that the appeal was not filed. See Hathaway v. State, 119 Nev. 248, 254, 71 P.3d 503, 507-08 (2003). Therefore, appellant failed to demonstrate cause to overcome the procedural bars, and the district court did not err in denying the petition. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Saitta


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Doug Smith, District Judge
Calvin Kirklan
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk